In the Supreme Court of the United States

OCTOBER TERM, 1974

No. 73-6650

RICHARD BROWN, PETITIONER

v.

STATE OF ILLINOIS, RESPONDENT

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

PETITION FOR CERTIORARI FILED MAY 1, 1974
CERTIORARI GRANTED OCTOBER 21, 1974

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A

RELEVANT DOCKET ENTRIES

May 13, 1968	Date of Arrest
July 2, 1968	Date of Filing of Motion to Suppress
Dec. 11, 1968	Date of Hearing on Motion to Suppress
Dec. 11, 1968	Date of Denial of Motion to Suppress
Jan. 19, 1970	Date of Conviction
Jan. 21, 1971	Date of Notice of Appeal
Jan. 31, 1974	Date of Supreme Court of Illinois Opinion
May 1, 1974	Date of Filing of Petition for Writ of Certiorari
Oct. 21, 1974	Date of Granting Writ of Certiori

B In the Circuit Court of Cook County, County Department—Criminal Division

Ind. No. 68–2275

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

RICHARD BROWN

Defendant's motion to suppress alleged confession, filed July 2, 1968:

Now comes the defendant, Richard Brown, by and through his attorney, Anthony Pacelli, and respectfully states as follows:

1. That he is the defendant in the above entitled cause which is now pending before this Honorable Court for trial. That he has entered a plea of not guilty to each count of the indictment herein.

2. That he is a citizen of the United States of America.

3. That on or about the 13th day of May, 1968, at or about the hour of 7:45 P.M. at or near the vicinity
C of 4837 West End Avenue. He was arrested by police officers of the City of Chicago. That said arrest was without his consent and without warrant or process of law and the said police officers did not have reasonable grounds believing that he had committed any criminal offense and he had not committed any crime in their presence.

4. Following his arrest he was taken to a police station commonly referred to as area 4 homicide, wherein he was from time to time incarcerated in a cell, intermittently questioned and kept awake by various police officers for the avowed purpose of forcing him to give evidence against himself concerning the death of one Roger Corpus. That during this period of time the defendant was threatened with bodily harm, promised immunity, promised leniency and otherwise harrassed and abused by those who held him in custody, until he could no longer bear the constant duress and becoming fearful of his physical well-being and in order to secure relief from the foregoing he was forced against his will to make a statement and al-

leged confession to said homicide, portions of which were stenographically recorded.

5. That said party was not appraised of any constitutional rights nor was the defendant appraised of his right to remain silent pursuant to Chapter 38, Section 103–2, sub-paragraph (a); further defendant was not informed of his right to communicate with an attorney pursuant to Chapter 38, Section 103–3, subparagraph (a); further that defendant was not permitted his right to discuss with an attorney pursuant to Chapter 38, Section 103–4.

D 6. Section 10 of Article II of the Constitution of the State of Illinois provides that no person shall be compelled in any criminal case to give evidence against himself. The Fifth Amendment to the Constitution of the United States likewise. The Fourteenth Amendment to the Constitution of the United States provides that no state shall deprive any person of his life or liberty without due process of law. Wholly disregarding these constitutional provisions, the police officers having defendant in custody compelled him to give evidence and alleged incriminatory statements against himself for the purpose of securing evidence, admissions and confessions upon which defendant might or could be convicted. Defendant is informed and believes and upon such information states the fact to be that all of the alleged confessions or admissions so unlawfully secured have been placed with and turned over to the State's Attorney of Cook County, Illinois, and will be used against defendant in the trial of this cause unless suppressed by order of this court.

7. Paragraph 109–1 of the Illinois Code of Criminal Procedure provides that:

> (a) A person arrested without a warrant shall be taken without unnecessary delay before the nearest and most accessible judge in that county, and a charge shall be filed. A person arrested on a warrant shall be taken without unnecessary delay before the judge who issued the warrant or if he is absent or unable to act before the nearest or most accessible judge in the same county.

Wholly disregarding the provisions of said statute, the defendant as held without warrant or process and was

E never taken before a judge, court or magistrate in compliance with the law, until the said police had unlawfully forced defendant to give an alleged admission and confession

and statement against himself. Defendant was not taken before a judge, court or magistrate until the morning of May 14, 1968. The several judges, courts and magistrates of Cook County, Illinois and of the City of Chicago and State of Illinois were all open and available throughout the day of May 14, 1968, but the persons and officers who had arrested the defendant without warrant intentionally and wilfully failed to take the defendant before any of said judges, courts or magistrates.

8. All of the actions, proceedings and conduct of the said persons and officers relating to the arrest, confinement, questioning, interrogation, threatening, beating, etc. as hereinbefore alleged were and are contrary to and in violation of the rights guaranteed defendant by Sections 103–2, Section 103–3 and Section 103–4.

9. That the defendant herein can substantiate the aforementioned with witnesses who were present following his arrest and at the police station at the time immediately before, during and after said alleged confession was taken.

10. Furthermore, the defendant contends that these allegations can be further supported by the testimony of the public defender, assistant to the courtroom of the Honorable Daniel J. Ryan, who was present at the time when the State's Attorney's office of Cook County attempted to further compound this injustice regarding the alleged confession and only at that time as the defendant availed of council to protect his constitutional right.

F Wherefore, defendant prays that an order be entered declaring unlawful the arrest, detention, interrogation, questioning, beating and holding of defendant as hereinabove alleged, declaring unlawful the forcing of defendant to give evidence against himself, suppressing all evidence, confessions, admissions or statements allegedly taken and obtained from defendant as a result of the foregoing and suppressing any testimony or information from any of the foregoing.

Respectfully submitted,

(signed) RICHARD BROWN

Notice of Appeal to the Illinois Supreme Court filed on January 21, 1970:

1–3 (December 11, 1968, Pre-Trial Proceedings on the Motion to Suppress before the Honorable L. Sheldon Brown).

WILLIAM LENZ, called as a witness on behalf of the Respondent, having been duly sworn, was examined and testified as follows:

Direct examination by Mr. CUSICK.

Q. State your name, officer.

A. William Lenz, L-e-n-z.

Q. What is your employment?

A. Police Department, City of Chicago.

Q. How long have you been on the force?

A. Fourteen years.

4 Q. How many years a detective?

A. I have been a detective since 1956.

Q. Calling your attention—twelve years?

A. Yes, sir.

Q. Calling your attention to May 13th, 1968, at approximately 7:45 P.M. did you have occasion to arrest one Richard Brown?

A. Yes, sir, I did.

Q. Recall where you arrested him?

A. In the 3800 block of West West End Avenue.

Q. Who were you with at the time?

A. I was with Detective William Nolan.

Q. Was the defendant taken into custody at that point?

A. Yes, sir, he was.

Q. Was he transported to a police station?

A. He was.

Q. By what means?

A. By police vehicle, our squad car.

Q. What station was he taken to?

A. Area 4, Homicide, the Maxwell Street Station.

Q. Located at what address?

A. 943 West Maxwell Street.

Q. At the time you first saw the defendant, what was

5 his general physical condition as it appeared to you?

A. It was good.

Q. You noticed nothing on him out of the ordinary?

A. No, sir, he was dressed in casual clothes. Neat as I recall, a green sport shirt and green slacks.

Q. The defendant we are referring to, Richard Brown, do you see him in court today?

A. Yes.

Q. Point him out, please.

A. The gentleman sitting next to the counsel at the table.

Q. Striped shirt?

A. I would say striped gray shirt with white stripes.

Q. What time did you arrive at the station? If you recall?

A. It took us approximately 20 minutes. We would arrive at the station shortly after—

Q. Was the defendant brought to a particular area or room in the station?

A. Yes, he was.

Q. Which one was that?

A. This would be what we refer to as the central inter-

6 rogation room, Room 206, on the floor at 943 West Maxwell.

Q. Who brought him to that particular room?

A. Both myself and Detective William Nolan.

Q. Did you have a conversation with the defendant at that time?

A. Yes, sir, I did.

Q. Were any warnings issued to the defendant?

Mr. HOWARD. Objection.

The COURT. What is your objection?

Mr. HOWARD. The objection, Judge, is to the words or word "warnings."

The COURT. Overrule the objection providing it becomes specific.

Mr. CUSICK. Q. Were any so-called Constitutional warnings issued to the defendant at this point?

The WITNESS. A. Yes, sir, they were.

Q. Will you state what their nature was?

A. Yes, sir. I warned the defendant, we first informed him again of why he was under arrest. I then informed him that he had a right to remain silent. Asked him if he understood and he indicated that he did. I informed him that he had a right to have an attorney present at the time that he was being questioned or any time thereafter, and asked him if he under-

7 stood this warning. He informed me he did. I then asked him if he wished to have an attorney present at this time, and he indicated that he did not. I then informed him that anything he might say or write could and would be used against him at a future date. He informed me that he understood this also.

Q. He answered to that effect?

A. That is correct, sir.

Q. Who was present when these warnings were given besides you and the defendant?

A. Myself and Detective William Nolan.

Q. These warnings were given in what particular room again?

A. Room 206, which would be the center interrogation room.

Q. After this preliminary questioning with regard to warnings what happened next?

A. We had a conversation with Mr. Brown relative to the slaying of Mr. Corpus. After having this conversation he agreed to give us a written statement. A typewriter was brought into the room and a written statement was obtained from Mr. Brown.

Q. Who did the typing of this particular statement?

A. I did the typing, sir.

8 Q. Who was present during the typing of this statement?

A. Detective William Nolan.

Q. Was this typed, statement typed as the questions were asked and answered?

A. That is correct, sir. The question would be asked, typed, and then the answer would be typed in.

Mr. CUSICK. I would like this marked Respondent's Exhibit No. 1.

(Thereupon said exhibit was marked Respondent's Exhibit No. 1 for identification.)

Mr. CUSICK. Care to examine this, Mr. Howard?

Mr. HOWARD. I have seen it.

Mr. CUSICK. Q. Officer, I show you Respondent's Exhibit No. 1 and ask you if you can identify that?

The WITNESS. A. Yes, sir, I can.

Q. When and where did you first see it?

A. This statement was taken on the date of the arrest at approximately 8:40 or 8:40 P.M., in room 206, 943 West Maxwell Street.

Q. This is the statement you referred to just previously in your testimony?

A. That is correct, sir.

9 Q. Who was present once again during this particular statement?

A. Present during the taking of this statement was the accused, Mr. Brown, myself, and Detective William Nolan.

Q. Is there a signature affixed on the bottom of this statement?

A. Yes, sir, there is.

Q. Whose signature is that?

A. It bears the signature of Richard Brown.

Q. How many pages in the statement?

A. Two pages.

Q. Does this particular typewritten document truly and accurately portray the questions and answers that were asked on this particular day in question?

A. Yes, sir, it does.

Q. Now, what time was this statement completed?

A. This statement took us approximately 25 to 30 minutes to complete.

Q. Upon the completion of the statement, what happened next?

Q. Mr. Brown agreed to accompany Detective Nolan and myself to the area of Madison and Homan, Madison and St. Louis, that general area where he informed us another

10 subject being sought could be located.

Q. Approximately what time did you leave the Maxwell station?

A. As best I recall it would have been 9:30 or shortly after 9:30 P.M.

Q. What was the defendant's physical condition when he left the station at this point?

A. Good.

Q. Had he changed from when you first arrested him?

A. No, sir, he had not.

Q. Did he make any complaint of being harassed or under any type of harassment?

A. No, sir, he did not.

Q. When you left what time did you reach the Madison and Homan area?

A. Approximately 9:45.

Q. How long were you out on the street in this particular area?

A. We drove around in the immediate area and stopped at various taverns on Madison Street. We also toured the area of Monroe Street, St. Louis, Central Park. We would get out of the car with the accused and he would look into various businesses trying to locate the other subject.

11 Q. Did you eventually leave this area?

A. Yes, sir, we did.

Q. Were you successful in locating Mr. Claggett at this point?
A. No sir.
Q. Where did you go when you left the area?
A. We went to the police central building at 1121 South State to the identification section.
Q. Your purpose in going there was what?
A. An attempt to obtain a photograph of Mr. Claggett.
Q. How long were you inside the building?
A. I would say approximately twenty, twenty-five minutes.
Q. Once again it was you, the defendant and Detective Nolan?
A. That is correct.
Q. What time did you leave the building approximately?
A. As best as I can recall we left the police building it would be, oh, about five minutes to 11:00 or 11:00 o'clock P.M.
Q. Where did you go then?
A. We proceeded back to the area of Homan and Madison, Madison and St. Louis.
12 Q. What happened next?
A. We again revisited the same businesses we had originally attempted to locate Mr. Claggett. We were unsuccessful. Got back into the car and were proceeding south on St. Louis Avenue. As we came to the intersection of St. Louis and Monroe Mr. Brown indicated, there were three people crossing in front of our vehicle walking from the west side to the east side of the Street on Monroe, he indicated one of the three persons as being Mr. Claggett, the man we were seeking.
Q. Did you arrest Mr. Claggett?
A. Yes, sir, we did.
Q. Did you go back to the station at this point?
A. We did.
Q. What time did you and the defendant Brown and William Nolan arrive back inside the station?
A. Approximately 12:15, 12:20 A.M.
Q. During the entire period of time from the arrest up until now had the defendant complained of any abuse of any kind?
A. No, sir, he did not.
Q. What was his physical condition when you reached the station?
A. His physical condition was good.
13 Q. Had he had anything to eat or drink during the interim period?

A. There was some coffee, as I recall, we had some coffee.
Q. Did he have some?
A. Yes, sir, he did.
Q. Where did you have the coffee?
A. This would be in the station.
Q. When you arrived in the station, about 12:20 in the morning or 12:20 A.M. would that have been?
A. That is correct, sir.
Q. Where was the defendant put or kept at this point?
A. He was placed back in the same room, Room 206.
Q. Was he guarded there by anyone?
A. The door was closed. The room that he was in the door was closed and the windows are barred.
Q. Was he in there alone?
A. He was alone.
Q. Was he visited by anyone from 12:20 A.M. until 2:00 o'clock in the morning?
A. No one other than myself, Detective Nolan.
Q. Were you in the outer room during this period?
A. Yes, sir. We had had a conversation with Mr. Claggett, a very brief conversation, we returned and had a short conversation with Mr. Brown and then awaited the arrival
14 of an Assistant State's Attorney in our office.
Q. Were any promises of leniency or any other inducement extended toward Richard Brown?
A. No, sir, no promises.
Q. At any time?
A. No, sir.
Q. Now, at approximately 2:00 o'clock in the morning what happened then?
A. Assistant State's Attorney Mr. Crilly, John Crilly, arrived, and he was given the file, the reports that we had on the case up to that point and made aware of the arrest and circumstances surrounding it. He then went into the center room and had a conversation with Mr. Brown.
Q. How long was he in there with Mr. Brown?
A. Twenty, twenty-five minutes.
Q. Then what happened next?
A. A court reporter had arrived in the interim. The court reporter, myself and Mr. Crilly then went into the room and a statement was obtained from Mr. Brown.
Q. Were you aware of any statements made to Mr. Brown—strike that.

Who was present during the second statement?

A. I was present, Assistant State's Attorney Mr. Crilly, the court reporter and the accused, Mr. Brown.

15 Q. Do you recall any constitutional warnings being issued to the defendant at this time?

Mr. HOWARD. Object to the leading form of the question.

The COURT. Repeat the question.

(Question read.)

The COURT. Sustain the objection.

Mr. CUSICK. At this particular point do you recall anything Mr. Crilly might have said to the defendant in your presence?

The WITNESS. A. In my presence?

Q. Yes, sir.

A. He introduced himself, he introduced the court reporter and myself. After the introductions he informed the accused of his constitutional rights.

Q. Without repeating them were they the same warnings that had been issued earlier?

A. In substance, yes, sir, same warnings.

Q. What was the defendant's reply or response, if any, to these statements by Mr. Crilly?

A. He indicated that he was aware of his rights, and he also waived his right to have an attorney present.

Mr. HOWARD. Objection.

The COURT. Sustained.

16 Mr. CUSICK. Q. Well, what actually did he say? What were his own words in response to these warnings?

The WITNESS. A. He indicated that he was aware of them.

Mr. HOWARD. Objection.

The COURT. Sustained. What was done? What was said?

Mr CUSICK. Q. What actually happened? Not what he indicated. What did he say with his own mouth?

The COURT. If anything.

Mr. CUSICK. Q. If anything?

The WITNESS. A. He told Mr. Crilly that he understood his rights.

Mr. CUSICK. I would like this marked as Respondent's Exhibit number 2 for identification.

(Thereupon said exhibit was marked Respondent's Exhibit number 2, for identification.)

Mr. CUSICK. Q. Now, Detective Lenz, I show you a typewritten document approximately eighteen pages long marked

as Respondent's Exhibit number 2 for identification. Will you examine that, please? And do you recall any knowledge about this document? Any personal knowledge?

17 Mr. HOWARD. Judge, I would object to it unless the witness has seen this document before.

The COURT. All right, qualify it.

Mr. CUSICK. Q. Were you present when subsequent questions were asked and answered by the State's Attorney and the defendant?

The WITNESS. A. I was not the detective present, no, at the taking of the statement.

Q. You were not the detective present?

A. No, sir. Not on this written statement. On the original statement.

The COURT. What if anything did you have to do with that statement?

The WITNESS. A. The statement taken by the Assistant State's Attorney?

The COURT. Yes.

The WITNESS. A. Nothing. I was not present during the taking of that statement.

Mr. CUSICK. Q. During the taking of this statement you were outside the room?

A. That is correct, sir.

Mr. CUSICK. No further questions.

Cross examination by Mr. HOWARD

Q. Now, Officer, you arrested Richard Brown on May 13th, 1968, did you not?

18 A. That is correct.

Q. When did the deceased in this case meet his death?

Mr. POMERO. Objection.

The COURT. Let him answer.

The WITNESS. A. I don't recall, but it was sometimes prior to the arrest.

Mr. HOWARD. Q. Would it be May 6th, 1968?

A. That date I believe is correct.

Q. Now, officer, when you testified a few minutes ago you said that you arrested the defendant Richard Brown in the 3800 block West on West End, is that right?

A. That is correct.

Q. Specifically, Officer, what was the address that you arrested this defendant?

A. I don't recall the exact address. I believe it was approximately 3827 or 47. I know the building was located on the south side of West End Avenue.

Q. All right. It was an apartment building, wasn't it?

A. Yes, sir, it was.

Q. Was the address where the defendant was arrested his private residence?

19 Mr. POMERO. Objection.

The COURT. Let him answer if he knows.

The WITNESS. A. To the best of my knowledge it was his residence.

Mr. HOWARD. Q. Now, when you—strike that. Who was present when Richard Brown was placed under arrest by you and Detective Nolan?

A. Detective Nolan, myself, and Mr. Brown.

Q. You were waiting at Mr. Brown's residence when he arrived home, weren't you?

A. That is correct.

Q. You were in the—inside of his apartment, weren't you?

A. I was inside the apartment, yes, sir.

Q. Where was Detective Nolan?

A. Detective Nolan——

Mr. CUSICK. Object, your Honor.

The COURT. Let him answer if he knows.

The WITNESS. A. Detective Nolan was in a hallway immediately outside of the room. This hallway had an adjoining corridor extending to the rear porch.

Q. Where was Mr. Brown when you first saw him?

A. When I first observed Mr. Brown he was coming

20 up the rear stairs, this would be the third floor, walking down a short porch up to the window behind which I was concealed.

Q. After he walked up near the window did you at that time place your revolver on Mr. Brown?

A. Yes, sir, I did.

Q. And while you held your revolver on Mr. Brown, Detective Nolan came from where he was and asked him to come back into the apartment—to come into the apartment?

A. That is correct.

Q. Now, Officer, did you have a warrant for the arrest of Richard Brown?

Mr. CUSICK. Objection.

The COURT. Sustain the objection.

Mr. HOWARD. Q. Did you have a search warrant to search his apartment?

Mr. CUSICK. Objection.

The COURT. Sustained.

Mr. HOWARD. Q. When you put your revolver out the window and held Mr. Brown at bay, what was the first thing you said to him?

Mr. POMERO. Objection.

The COURT. Let him answer.

Mr. POMERO. Held him at bay?

Mr. HOWARD. He testified he put his revolver

21 on him.

The WITNESS. A. Informed him that he was under arrest.

Mr. HOWARD. What did Mr. Brown say?

A. He didn't say anything at that time.

Q. After you told him that he was under arrest what took place after that?

A. Detective Nolan came out a side door which leads out onto the porch, drew his revolver and brought Mr. Brown back into the room.

Q. After you were inside the room, what was the first thing you said or Detective Nolan said to Mr. Brown?

A. We again informed him that he was under arrest. He denied being Richard Brown.

Q. After he denied being Richard Brown what was the next thing said?

A. We asked if he wanted a coat or jacket. He informed us he did not. We left the apartment, walked out, down the rear stairs into our car.

Q. Did you search Mr. Brown while he was in that apartment?

A. Yes.

Mr. CUSICK. Objection.

The COURT. Wait a minute.

22 Mr. HOWARD. Q. Did you?

The WITNESS. A. Yes, sir.

Q. Did you find upon Mr. Brown's person identification which showed that he in fact was Richard Brown?

A. No, sir. We found a driver's license bearing another person's name.

Q. After he said he was not Richard Brown what did you say to him, if anything?

A. We showed him a photograph that we had of the subject, Richard Brown, identifying him as such.

Q. Then what did Mr. Brown say after you showed him the photograph?

A. Nothing, sir.

Q. Did you search him before you showed him the photograph?

A. Yes, sir.

Q. After you showed him the photograph what was said after that?

A. As I recall nothing was said. He didn't make any reply. We had already searched Mr. Brown. We left the apartment.

Q. When what did you do?

A. Walked out the porch, down the rear stairs, through an alley to Washington Boulevard where we had our car
23 parked. The three of us got into the automobile and went to the Maxwell Station.

Q. Now, Officer, while you were in Mr. Brown's apartment you said you told him he was under arrest, is that right?

A. That is correct, sir.

Q. Did you tell him for what reason he was under arrest when you first drew your revolver?

A. No, sir. As I recall when I first saw Mr. Brown I told him he was under arrest.

Q. Now, while he was in the apartment while the search was being carried on did you tell Mr. Brown at that time for what reason he was under arrest?

A. Yes, sir.

Q. What words did you use?

A. He was under arrest for the murder of Roger Corpus.

Q. All right. Now, what did Brown say if anything after you told him he was under arrest for the murder of Roger Corpus?

A. He denied being Richard Brown.

Q. Is that the only thing that he said?

A. This is all that was said, sir, until we arrived at the Maxwell area.

24 Q. You had no conversation with him as he walked from the apartment building to your car?

Mr. CUSICK. Object, Judge.

The COURT. Let him answer.

The WITNESS. A. No, no conversation, sir.

Mr. HOWARD. Q. As you rode from the apartment building down to the Maxwell Street station was there any conversation between you and Mr. Brown or Detective Nolan and Mr. Brown?

A. Yes, sir.

Q. What was said by Mr. Brown and what was said by you?

A. As I recall Detective Nolan inquired of Mr. Brown as to whether or not he had ever driven or owned an Oldsmobile automobile.

Q. What did Mr. Brown say to that?

A. I believe he replied or I recall he replied that a friend of his had such an automobile.

Q. What other conversation took place?

A. That is all I recall, sir.

Q. Now, after you arrived in the Maxwell Street station where did you first take Mr. Brown?

A. Room 206, this would be the interrogation room, second floor.

Q. As you entered the Maxwell Street station did you
25 have a conversation with anybody in the presence of Mr. Brown?

A. Not as I recall, sir.

Q. When you walked up to the second floor of the Maxwell Street station did you have a conversation or did you say anything to anybody as you came into the station—into the second floor?

A. Not in Mr. Brown's presence. As I recall we placed Mr. Brown immediately in the interrogation room and then went into our office.

Q. Isn't it true that you told the sergeant there that you had him right while Mr. Brown was in your presence?

A. I don't recall saying that.

Q. You could have though, couldn't you?

Mr. POMERO. Objection to that.

The COURT. Sustained.

Mr. HOWARD. After Mr. Brown was taken into the interrogation room was there anybody else in the room besides Mr. Brown, Detective Nolan and yourself?

The WITNESS. A. No, sir.

Q. What was the first thing that took place after Mr. Brown was taken into the room?

26 A. He was seated down in a chair at a table inside the room. We went out of the room, the door was closed. I went into the homicide office and obtained the homicide file on the Roger Corpus death.

Q. Immediately after he had been seated in the room?

A. That is correct.

Q. You left Mr. Brown in the room with Detective Nolan?

A. No, I don't recall Detective Nolan was in the room.

Q. Well, let's back up a minute. When you first got to the Maxwell Street station you, Mr. Brown, Detective Nolan went up to room 206, is that right?

A. That is correct.

Q. All three of you were in the room?

A. That is correct.

Q. Now, was—Mr. Brown was seated in a chair, is that right?

A. That is correct.

Q. Was he handcuffed at that time?

A. I don't recall his being handcuffed, no, sir.

Q. Did you handcuff him when you left the apartment building?

A. No, sir, I didn't have handcuffs.

27 Q. After you got in the room and you, three of you in the room, you say you left the room?

A. We left the room, both of us left the room, Detective Nolan and I, and Mr. Brown was seated in a chair. There were approximately four chairs in there and a table. He was seated in one of the chairs. This would be a chair facing the door with his back to the windows. We walked out of the room, closing the door, and walked to our office which was approximately twelve feet from this room.

Q. Both of you left?

A. Yes, sir.

Q. How long were you gone?

A. Ten minutes.

Q. Did you go back in the room with Detective Nolan?

A. Yes, sir.

Q. After you and Detective Nolan came back in the room what happened after that?

A. Mr. Brown was advised of his Constitutional rights.

Mr. Howard. Object to that. That is not responsive to the question.

The Court. Read the question.

28 (Question read.)

Mr. Cusick. He answered.

The Court. What happened, not what he said, what was said. Ask him what happened.

The Witness. A. I sat down in a chair across from the table facing Mr. Brown. Detective Nolan sat, as I recall, to Mr. Brown's left in another chair. I had the homicide file with me. I placed it on the table and opened it.

Q. What was the first thing after you placed the homicide file on the table what was the first thing you or Detective Nolan said to Mr. Brown?

A. I informed Mr. Brown of his Constitutional rights.

Mr. Howard. Object, your Honor.

The Court. Read the question.

(Question read.)

The Court. What was his answer?

(Answer read.)

The Court. Let it stand.

Mr. Howard. I object to it on the ground that the answer is given by the witness is a conclusion. What Constitutional rights? Might have advised him he has a right to vote.

The Court. Well, do you want to ask him about it?

29 Mr. Howard. I asked him what he said. What was the first thing he said to Mr. Brown immediately after he placed the file on the desk.

The Court. All right. Give him a specific answer.

The Witness. A. As best I can recall, counsellor, I said, "Richard Brown, I want to warn you that you have a right to remain silent. Do you understand?" He told me that he did. I then warned him that he had a right to have an attorney present if he desired, and if he couldn't afford an attorney, a free attorney would be provided for him by the State. I asked him if he understood that. He informed me that he did. I then asked Mr. Brown if he wished to have an attorney present at this time. He informed me that he did not, he did not have an attorney. I then asked him or told him rather that anything that he might say or write could and would be used against him at a future date in a court of law. I asked him if he understood this, and he told me that he did understand.

Mr. Howard. Q. After he said that I understand these things

that you just mentioned then what was the next thing that was said or done?

30 A. I informed Mr. Brown that we were aware of an incident that had taken place in a pool room on 5th Avenue, on, as I recall, the 3rd—approximately the 5th of May 1968. His answer was, "Oh, you know about that." I also informed him that we had obtained a bullet from the ceiling of this pool room and that this bullet had been taken to our crime lab to be compared with bullets taken from Roger Corpus' body.

Mr. POMERO. Judge, excuse me. Like to object now. Going into the substance.

Mr. HOWARD. Talking about conversation that took place prior to the time the man made a statement to him.

Mr. CUSICK. I object to any conversation that goes to the substance of the case. The issue is——

Mr. HOWARD. It is a privilege——

Mr. CUSICK. The issue here is whether the statement was voluntary.

Mr. HOWARD. We can't know until we know what took place inside the station.

The COURT. Carry on. Overrule the objection.

Mr. HOWARD. Go ahead.

The WITNESS. A. His answer to this was, "Oh, you know

31 that too." I then asked Mr. Brown if he wished to tell us what he knew about Roger Corpus' homicide. He informed us that he did.

Q. Before he told you that he wanted to give a statement concerning Roger Corpus you had told him about a shooting in a pool room, did you not?

A. Not a shooting, sir. A weapon being fired.

Q. Fired, yes. You also told him that the pellet that was retreived in the pool room was the same kind of pellet that was found in the body of the deceased, didn't you?

Mr. POMERO. Objection.

Mr. HOWARD. Q. Pardon?

The WITNESS. A. No, sir, we did not.

Q. Let's back up just a minute.

Mr. POMERO. I had an objection, counsel.

Mr. HOWARD. Sorry.

The COURT. What is the objection?

Mr. POMERO. He is assuming facts not yet in evidence.

The COURT. All right, the witness has already said no, so let it stand.

Mr. HOWARD. Let's back up a minute, Officer. You said that after you warned Mr. Brown about his right to have a lawyer, and so forth, and he said I understand——

32 The WITNESS. A. That is correct, sir.

Q. You then said that there was a conversation wherein you told Mr. Brown that you knew about a shooting in a pool room, is that right?

A. About an incident.

Q. An incident?

A. That is correct.

Q. What—Now, what else did you say to him when you said we know about the incident?

A. I informed him that we had retrieved a bullet from the ceiling and that this bullet had been sent to the crime lab to be compared with the bullets taken from Roger Corpus' body.

Q. What did Mr. Brown say after you informed him about the sending of the pellet to the crime lab?

A. His response was the same as he had originally given when I told him about the pool room, "Oh, you know about that."

Q. Now, what was the next thing that was said between you and Detective Nolan and Mr. Brown?

A. I asked Mr. Brown if he wished to tell us about the Roger Corpus homicide.

Q. What did he say?

A. He said he did.

33 Q. And did he at that point make a statement concerning Roger Corpus' death?

A. Yes, sir, he did.

Q. You wrote down, Officer, or typed up the statement that was made by Richard Brown, and in that statement there was certain questions asked by you and Detective Nolan and he gave answers to those questions, is that right?

A. The questions in the statement were asked by Detective Nolan and I was the typist.

Q. You were there?

A. That is correct, I was present.

Q. And the questions that you asked of Mr. Brown and the answers he gave were included in the statement, is that right?

A. That is correct.

Mr. HOWARD. Where is that statement?

Q. Officer, I show you what has been identified as People's

Exhibit No. 1 for identification. I ask you if this is the statement that was typed up by Mr. Brown or typed up by you and signed by Mr. Brown?

A. Yes, sir, this is a copy of the statement.

Q. Now, when this statement was being typed up you
34 did not type down the facts that you told Mr. Brown that he had a right to have a lawyer, did you?

A. In the statement, sir, on the first page you will see the question, "You have been advised of your Constitutional rights."

Q. You didn't answer my question. I asked you did you type down in this statement the fact that you told Mr. Brown that he had a right to have a lawyer?

Mr. CUSICK. I will stipulate that the particular warnings were not included.

Mr. HOWARD. I am not asking for a stipulation. We are talking about what took place.

The WITNESS. A. I don't believe the statement includes each and every——

Q. No. I asked you to look at the statement and did you put in the statement—maybe you did, I don't know, did you tell in that statement that Mr. Brown signed, is it in that statement initially that Mr. Brown—you warned him that he had a right to have a lawyer?

Mr. CUSICK. Your Honor, I will object. Already answered he did not. Trying to say the Constitutional warnins are in there but not enumerated.

Mr. HOWARD. Object to the State's Attorney making
35 a speech, Judge.

Mr. CUSICK. It isn't a speech. To save time I will stipulate they are not enumerated.

Mr. HOWARD. I am not looking for any short cuts. It is very important as to what is in that statement. I am merely asking this officer if he told him in the statement that he had a right to have a lawyer.

The COURT. Let him answer.

The WITNESS. A. It is included in the statement, sir. The fact that you can have an attorney present.

Mr. HOWARD. Q. All right. Did you also tell him in the statement that, is it written in that statement that if you don't have funds to hire a lawyer the State will hire one for you?

A. That is not shown in the statement, no, sir.

Q. Did you write down on that statement that was signed by Mr. Brown that not only do you have a right to have a lawyer but you have a right to have one here and now? Is that in the statement?

A. That is present there, sir, that you can have an attorney at this time.

Q. All right. Now, did you say in that statement, did you tell Mr. Brown in that written statement that anything that he may say can be used, later used against him?

36 A. That wording does not appear in that statement, sir.

Q. When did Mr. Brown state anywhere in that statement that he did not want a lawyer?

A. Not in those words, no, sir.

Q. Is it in that statement, does he say I do not want a lawyer?

A. No, sir, not in those words.

Q. Did he say in that statement that I understand that anything that I may say can be used against me?

A. No, sir, not in those words.

Q. After Mr. Brown had made a statement to you an Assistant State's Attorney was called, is that right? Is that what you said?

A. Sometime later, yes, sir.

Q. How much later?

A. A statement was taken as best as I recall about 8:45, took us approximately 25 minutes. We left the station shortly after 9:00, went down—went to the area of Homan and Madison, made a tour of this area. I can't approximate the time. We then left that location with Mr. Brown, went to the central police building, 1121 State where we attempted to obtain a picture of Mr. Claggett, were unsuccessful, came down
37 again, got into the vehicle, police vehicle, and we returned to the area of Homan and Madison and were successful in locating Mr. Brown shortly before midnight.

Q. Mr. Brown or Mr. Claggett?

A. Mr. CLAGGETT. I am sorry.

Q. Let me ask you this, officer. Before Mr. Brown told you about what he knew about the Corpus death isn't it true that you told Mr. Brown that you wouldn't prosecute him if he helped the police?

A. No, sir, I did not.

Q. Mr. Brown went with you when you left the police station to help you find this man Claggett didn't he?

A. That is correct, sir.

Q. Wasn't that because you told him that he would not be under arrest and would not be prosecuted if he told you who the real man was?

A. No, sir, he was already under arrest.

Q. Now, it was about 7:45 thereabouts when you placed Mr. Brown under arrest, is that right?

A. That is correct, sir.

Q. Did you take Mr. Brown down to 11th Street or any other place before any judge or magistrate?

A. 7:45?

Q. Yes.

38 A. No, sir.

Q. Were you aware of the fact that a special bond court had been set up at 1121 South State on the 11th floor?

Mr. POMERO. Object, Judge.

The COURT. What is your objection?

Mr. POMERO. Irrelevant.

Mr. HOWARD. Of course, the statute provides for it. I don't see how it is irrelevant.

Mr. POMERO. Take him down to the station and question him.

Mr. HOWARD. I am asking what the statute calls for.

The COURT. Let him answer.

The WITNESS. A. I am aware that there is a night bond court.

Mr. HOWARD. Q. Did you take Mr. Brown there?

A. No, sir.

Q. Where was the first time you took Mr. Brown before any Judge or magistrate after he was placed under arrest?

A. It would be the morning, best as I can recall looking at the statement. This statement was taken on the 13th of May. He would have went to Court that morning. Appeared in Felony Court.

39 Q. He had already made a statement both to you and to the State's Attorney when he was first taken before any Judge or magistrate, hadn't he?

A. The statement given to the State's Attorney was approximately 2:00 or 2:30 A.M. on the 13th. As I recall the defendant appeared in Court at 9:30 A.M. on the 13th.

Q. Officer, when you told Richard Brown that he was under arrest at this address on West End in his apartment, you said

that you told him he was under arrest for the murder of Corpus?

A. Roger Corpus.

Q. Did you say for the murder of Roger Corpus?

A. That is correct, sir.

Q. When was the next time you told him he was under arrest for that?

A. In the station.

Q. When you told him that he was under arrest for the murder of Roger Corpus at the station he had not at that time made a statement to you nor Officer Nolan, had he?

A. That is correct.

Q. He had not made a statement to the Assistant State's Attorney?

A. That is correct.

40 Q. Did you tell Richard Brown in the apartment when you told him he was under arrest for the murder of Roger Corpus that he could—if he was convicted of murder he could go to the penitentiary for a minimum of 14 years?

Mr. POMERO. Objection.

Mr. HOWARD. I will connect it up, if the Court please.

The COURT. All right, if you connect it up.

The WITNESS. A. In the apartment at the time of the arrest?

Mr. HOWARD. Q. Yes.

A. No, sir.

Q. Did you tell him when you—did you tell him that on a charge of murder that he could be convicted of manslaughter?

A. Did I tell him this?

Q. Yes.

A. When and where?

Q. In the apartment.

A. No, sir.

The COURT. Connect this up too, counsel?

Mr. HOWARD. Yes, sir.

Q. Did you tell him in the apartment that he could be convicted for involuntary manslaughter on a charge

41 of murder?

The WITNESS. A. No, sir.

Q. Did you tell him in the station prior to the time that he made the statement that if he was convicted of murder he could be sent to the penitentiary for a minimum of 14 years?

A. No, sir.

Q. Did you tell him that if he was convicted of murder he could be sent to the electric chair?

A. No, sir.

Q. Did you tell him——

Mr. POMERO. Let the record show we have continuing objection.

The COURT. All right. Let the record also show that it will be stricken if counsel doesn't tie it up.

Mr. HOWARD. Very well, your Honor.

Q. Did you tell him that if on a charge of murder that he could be convicted of manslaughter which he could go to the penitentiary for a period of time from one to twenty years?

The WITNESS. A. This was all prior to his statement?

Q. Yes.

A. We are referring to this statement?

Q. Yes, sir.

42 A. No, sir.

Q. Did you tell him that on a charge of murder he could be convicted of involuntary manslaughter for which he could go to the penitentiary for one to ten?

A. No, sir.

Q. Do you know prior to the time—strike that. Did anybody tell Mr. Brown in your presence what the penalty was for murder, manslaughter, or involuntary manslaughter before he made that statement?

A. No, sir.

Mr. HOWARD. No further questions.

Mr. CUSICK. Just one question.

Redirect examination by Mr. CUSICK:

Q. The defendant make, ever make any remark to you regarding State's evidence?

A. Yes, sir.

Q. When did he make this remark?

A. After having obtained the written statement, the first statement given by Mr. Brown at 8:45 P.M. and while we were preparing to leave the building to go to the area of Homan and Madison he informed us that he would want to be—he would like to turn State's evidence against Claggett as he was not the shooter nor did he have any idea that Claggett was going to do what he did.

Mr. CUSICK. I see. No further questions.

Mr. HOWARD. No further questions.

Mr. CUSICK. You may step down.

(Witness excused)

Mr. CUSICK. I will check, see if Mr. Crilly is back there.

JOHN W. CRILLY, called as a witness on behalf of the Respondent, having been duly sworn, was examined and testified as follows:

Direct examination by Mr. CUSICK:

Q. State your name, please.

A. John W. Crilly.

Q. Your occupation?

A. Assistant State's Attorney of Cook County.

Q. Now, how long have you been employed as an Assistant State's Attorney?

A. Five and a half years.

Q. Were you so employed as an Assistant State's Attorney on the morning of May 14th, 1968?

A. Yes, I was.

Q. Directing your attention to that morning were

44 you on any type of night call for the State's Attorney's Office?

A. Yes, I was.

Q. What was the period of night call?

A. It would be from 5:00 P.M. to 9:00 A.M. the following morning.

Q. That would be 5:00 P.M., May 13th, to 9:00 A.M., May 14th?

A. Yes.

Q. Recall going to the Maxwell Street Station at any time on the morning of the 14th?

A. Yes. I received a call at 1:00 A.M. and I proceeded to Area Four. I got there a little before 2:00 o'clock.

Q. Where did you go when you got there?

A. I went upstairs to the Homicide Section.

Q. When you arrived there did you have a conversation with any police detectives?

A. Yes, I did. I talked to Detective Lenz, I believe.

Q. Did you also see the defendant at that time?

A. After I talked to Detective Lenz, I went in and talked to the defendant.

Q. Recall where you talked to him?

A. I talked to him in a little interrogation room.

45 Q. Who was there when you talked to him?

A. Pardon?

Q. Who else was in there when you talked to him?

A. The first time I talked to him there was no one in the room, just he and myself.

Q. The defendant, Richard Brown, you have a recollection today of what he looks like?

A. No, I really don't remember what he looked like.

Q. Well, can you identify him today?

A. Yes, I see him sitting right there.

Q. Referring back to that particular morning in question you have a recollection what his physical condition was when you first saw him?

A. Yes, I do.

Q. Notice anything unusual or out of the ordinary about his condition?

A. No, I didn't.

Q. Was he speaking freely and coherently?

A. Oh, yes.

Mr. HOWARD. Objection to the use of the word "freely."

The COURT. Sustain the objection.

Mr. CUSICK. As to the words "freely", Judge?

The COURT. Yes.

Mr. CUSICK. Q. Now, for approximately how long did
46 you talk to him alone?

The WITNESS. A. Oh, for the better part of half an hour, I would say.

Q. In substance what did you say to him and what did he say to you?

A. Upon entering the room I told him that he was entitled to have an attorney present. He said he knew that, he had already been so informed of his Constitutional rights by the officers who had talked to him before. And I informed him of all of his Constitutional rights.

Mr. HOWARD. Objection.

The COURT. All right. Let it stand provided he states what they were.

Mr. CUSICK. Q. What specifically did you inform him?

The WITNESS. A. Well, I had a card that had certain rights on it and I just read those rights off to him when I first talked to him. Then I sat and——

Q. Do you recall what you read to him?

A. Yes, I told him that he was entitled to have an attorney and that if he could not afford one the State would provide one for him.

Mr. HOWARD. Your Honor, at this time the defense
47 will impose an objection to the State's Attorney testifying as to what he read off a card unless the card is presently in Court. It would be marked and introduced.

Mr. CUSICK. Judge, if he can recall——

The COURT. Can you account—have the card on you?

The WITNESS. A. Yes, it is, Judge. It is in my pocket.

The COURT. Want to pull it out and read it?

The WITNESS. A. I told him that he had a right to remain silent, that if he chose not to remain silent, anything he said or wrote could and will—could and would be used as evidence against him in Court. I told him that he had a right to consult a lawyer before any questioning, and that he had a right to have the lawyer present with him during any questioning. And he not only had a right to consult with a lawyer before any questioning, but that if he lacked the financial ability to retain a lawyer, a lawyer would be appointed to represent him before any questioning, and he could have the lawyer present with him during any questioning.

Mr. CUSICK. Q. Do you recall what responses, if any, he made to this statement by you?

48 A. He said that he did not want a lawyer, that he did want to talk to me.

Q. He did want to talk to you?

A. Yes, he did.

Q. Did you subsequent thereto ever leave the room the defendant was in?

A. Yes, as I say, after I sat there and talked to him for the better part of a half an hour, then I left the room and then came back in the room with the officer and a court reporter.

Q. When you went back in the room, you were with which detective, do you recall?

A. Detective Nolan.

Q. And a court reporter?

A. Yes.

Q. Recall his name?

A. Emmett Smith.

Q. He is a State's Attorney's court reporter?

A. Yes, he is.

Q. And yourself?

A. That is correct.

Q. Approximately what time did the court reporter begin taking the dictation?

A. Oh, it was approximately 2:30 A.M.

Q. I show what has been previously marked Respond-
49 ent's Exhibit 2 for identification and ask you to peruse that document and see if you can tell us if you recall anything about it?

A. Yes, this is the—this represents the questions I asked Mr. Brown and the answers he gave me on that morning.

Q. Did you have an opportunity to peruse this prior to coming up here today?

A. Yes, I did.

Q. Do the questions and answers on here truly and accurately portray the questions and answers that were asked and answered on the date in question?

A. Yes, it does.

Q. Prior to taking any information from the defendant Brown with the court reporter present, what did you say to him on the record in the court reporter's presence?

A. Once again, I read him the card. I have the card, I always carry it with me as—especially when I am on homicide call, and I just read him the same card I had previously read here.

Q. As you previously testified to about five minutes ago?

A. Yes.

50 Q. What was his reply to the second set of warnings that you gave him in the presence of the court reporter?

A. The same reply that I had previously had gotten from him. He said that he knew his rights and that he wanted to make this statement.

Q. What time was the statement finished, approximately?

A. I would say it was close to 3:00 A.M.

Q. Was the defendant issued any promises of leniency in your presence?

A. No, he was not.

Q. Was he threatened in any way by anyone?

A. No, he was not.

Q. Did his physical condition appear to be normal when the statement was finished?

A. Yes, it was. Prior to taking the statement he, I believe, he asked one of the officers if he could have some water, and the officer gave him some water. I am sure he was smoking a cigarette. He asked me for a cigarette when I first talked to him,

and I asked him if he was hungry and wanted anything to eat and he said he did not.

Mr. CUSICK. Okay. No further questions.

Cross examination by Mr. HOWARD:

51 Q. Attorney Crilly, when you arrived at the Maxwell Street Station, you were told by Detective Nolan and Detective Lenz that the defendant had already made a statement, weren't you?

A. Yes, I was told that by Detective Lenz. Detective Nolan wasn't there when I got there.

Q. Did Detective Nolan show you the typewritten statement that had been made by Mr. Brown?

A. Not at that time, he did not.

Q. Do you know how long Mr. Brown had been in the custody of the police when you arrived at the station?

A. No. I asked Mr. Brown that, but I don't recall.

Q. You said that when you spoke with Mr. Brown you read off to him certain warnings you just testified to on a card, is that right?

A. Yes, sir.

Q. When you were warning Mr. Brown did you tell him what the punishment was if he was convicted of murder?

A. No, sir, I did not.

Q. Did you tell him that in a charge of murder—that on a charge of murder he could be found guilty of manslaughter——

Mr. CUSICK. Your Honor——

52 Mr. HOWARD. Q.——for which he could be sent to the penitentiary from one to twenty years?

Mr. CUSICK. Let the record reflect there will be another continuing objection.

The COURT. What is the pertinency of this?

Mr. HOWARD. I promise the Court as a matter of law I will show the relevancy of it on my motion.

The COURT. With Illinois law?

Mr. HOWARD. Yes.

The COURT. All right. I will hold you to it.

Mr. HOWARD. Q. Did you tell him that he could—if convicted of murder that he could be sent to the penitentiary for a minimum of 14 years?

The WITNESS. A. No, sir, I did not.

Q. Did you tell him that he could be sent to the electric chair?

A. No, sir.

Q. Did you tell him anything concerning the definition or explain the charge of murder, manslaughter or involuntary manslaughter prior to the time that he made the statement to you?

A. No, sir. Before he made the statement I told him that I was sure he would be charged with murder.

Q. You didn't tell him what the penalty for murder was, did you?

53 A. No, sir.

Q. Now, Attorney Crilly, I show you what has been marked People's Exhibit No. 2 and has been identified by you as the statement taken from Richard Brown in the Maxwell Street Station on May 13, is that right? Or 14th?

A. Yes, sir.

Q. May 14th?

A. Yes.

Q. You said that you examined this document, read it over, before you came to the Courtroom today, is that right?

A. Yes, sir.

Q. When you informed Mr. Brown the court reporter was writing down on the statement you were making, informing Mr. Brown about these rights, is that right?

A. Yes.

Q. This court reporter was writing down the answers that Mr. Brown gave relative to the questions that you put to him, is that right?

A. Yes.

Q. I show you People's Exhibit No. 2 and ask you to look at it carefully. I ask you did Mr. Brown say in People's Exhibit No. 2 that I do not want a lawyer?

54 Mr. POMERO. Objection. It speaks for itself.

The COURT. Let him answer.

The WITNESS. A. No. He does not say that.

Mr. HOWARD. Q. Does Mr. Brown say—did Mr. Brown say whether or not he had any money to hire a lawyer?

A. No, sir, he did not.

Q. Did you ask him whether or not he had any money to hire a lawyer?

Mr. CUSICK. Objection.

The COURT. Sustained.

Mr. CUSICK. He wouldn't be required to ask him.

Mr. HOWARD. Pardon?

Mr. CUSICK The objection is sustained.

The COURT. Sustain the objection.

Mr. HOWARD. Q. When you arrived at the Maxwell Street Station, Attorney Crilly, did you take Mr. Brown before any Judge or magistrate?

The WITNESS. A. No, sir.

Q. Did Mr. Brown have a lawyer when you arrived at the Maxwell Street Station?

A. No, he did not.

Q. Was an attorney brought to the Maxwell Street Station on Mr. Brown's behalf at any time while you were there?

55 A. No.

Q. You were representing the People of the State of Illinois, weren't you?

A. Yes, sir.

Mr. CUSICK. Objection to this, your Honor.

The COURT. Sustain the objection.

Mr. HOWARD. No further questions.

Mr. CUSICK. Nothing further.

(Witness excused)

The COURT. I think we will break here for lunch. 1:00 o'clock.

(Thereupon said cause was recessed until 1:00 o'clock of the same day, December 11, 1968.)

56 State of Illinois, County of Cook

In the Circuit Court of Cook County

County Department-Criminal Division

Ind. No. 68–2275

THE PEOPLE OF THE STATE OF ILLINOIS

v.

RICHARD BROWN (IMPLEADED)

Charge: Murder
Before Hon. L. Sheldon Brown
December 11, 1968 at 1:45 o'clock P.M.

COURT CONVENED PURSUANT TO RECESS

PRESENT: Hon. Edward V. Hanrahan, State's Attorney of Cook County, by Mr. Thomas Cusick, Assistant State's Attorney, on behalf of the Respondent; Mr. George Howard on behalf of the Petitioner.

The BALIFF. Want the prisoner out?

The COURT. Bring him out.

Mr. HOWARD. Sorry, Judge.

The COURT. Get your business done?

Mr. HOWARD. No, sir. I am sorry I'm late, though.

Mr. CUSICK. The State at this time will call Detective William Nolan to the stand.

57 WILLIAM NOLAN, called as a witness on behalf of the Respondent, having been duly sworn, was examined and testified as follows:

Direct examination by Mr. CUSICK:

Q. State your name and area of assignment.

A. Detective William Nolan, Area 4 Homicide.

Mr. CUSICK. Any witnesses in the Courtroom?

Mr. HOWARD. No.

Mr. CUSICK. Q. Calling your attention to the 13th of May, 1968, did you have occasion to make the arrest of one Richard Brown?

A. Yes, sir, I did.

Q. Approximately what time of the day did that arrest occur?

A. Approximately sometime between 7:30 and 8:00 o'clock P.M., I believe.

Q. Where was the defendant arrested?

A. At his home on 3800 block on West End Avenue.

Q. Who else was present when the arrest was made besides yourself and the defendant?

A. Detective William Lenz.

Q. Was the defendant transported somewhere?

A. Yes, sir, he was.

58 Q. Where was that?

A. Into Area 4 headquarters, 943 West Maxwell.

Q. Once inside the building was he brought to any particular location in the building?

A. Yes, sir, we have three interrogation rooms at the west end of the building. He was placed in the center of these three rooms.

Q. What was his physical condition at that time if you recall?

A. Very good.

Q. Did you notice anything abnormal about him?

A. No, sir.

Q. Do you see the man you arrested on that occasion, do you see him in the Courtroom today?

A. Yes, sir.

Q. Point him out.

Q. He is sitting right over there in front of the bailiff.

Mr. CUSICK. Indicating for the record the defendant Brown.

Q. Did you have a conversation with him in the station?

A. Yes, sir.

Q. Where did the conversation take place?

A. In the interrogation room.

59 Q. Who else was present besides you and the defendant?

A. Detective Lenz.

Q. What did you say to him and what did he say to you?

A. We told him that he was brought in for the investigation of the fatal shooting of Roger Corpus.

Mr. HOWARD. Objection.

The COURT. What is the objection?

Mr. HOWARD. Time, your Honor.

The COURT. Time?

Mr. HOWARD. Yes, sir.

The COURT. What is the time?

Mr. CUSICK. Q. What time did this conversation commence?

The WITNESS. A. When we first brought him in the station? I would say probably some time around 7:30 in the evening.

The COURT. Who was present?

The WITNESS. A. Detective Lenz and myself.

Mr. CUSICK. Q. What time did the conversation with the defendant commence inside the interrogation room?

A. Within a few minutes after we got in the room.

Q. Do you know what time you got in the room?

60 A. Not exactly, I don't recall.

Q. It was some time after the arrest, though, at 7:45 or 8:00 o'clock, is that right?

A. Yes, sir.

Q. What was the—what did you say to the defendant and what did he say to you?

A. Well, I don't recall if I asked him or if Detective Lenz asked him if he know why he was there and as the—why we had him brought in, and about the incident in a pool room several weeks prior to this. And at this time he stated that, "Well, you know about that."

Q. Prior to saying this to him, did you issue any Constitutional warnings?

Mr. HOWARD. Objection.

The COURT. Sustained.

Mr. CUSICK. Q. In addition to the conversation regarding the pool room, what else, if anything, was said at that time?

A. Well, as soon as we got in the room, Detective Lenz warned him of his Constitutional rights.

Q. Detective Lenz warned him or you warned him?

A. I believe it was Detective Lenz, I am not sure.

Q. Did this take place before the conversation regarding the pool room or did it take place—did the warnings

61 take place after the conversation regarding the pool room?

A. Before any conversation.

Q. Was the door closed?

A. No, I don't believe so.

Q. How large a room is this?

A. I would say roughly maybe ten by fifteen or something like that.

Q. Now, what specifically did you say, did you or Detective Lenz say to him in regard to his Constitutional right?

A. Told him that he had a right to remain silent, that anything he told us or any written or oral statement he gave would be used against him in Court at a later date. Also told him that he had the right to have an attorney, and that if he couldn't afford an attorney one would be provided for him, and he could have the attorney present during any questioning or any statements. Then he was asked if he understood all of this, and he said, yes, he did. And——

Q. Did any additional conversation take place?

A. Then we had additional conversation after this.

Q. What was that?

A. I told him about the shooting in the pool

62 room approximately a week or two prior to the death of Roger Corpus and he said, "Oh, you know about that."

Q. Then did—was it at that point were additional questions asked?

A. Yes, he said that he felt he wanted to tell the whole truth.

Q. Was any type of recording instrument present in the room?

A. No, sir, not at this time.

Q. Was there a typewriter in the room?

A. Yes, there was a typewriter.

Q. When was that brought in?

A. I believe the typewriter was in—these rooms they usually carry typewriters. If there isn't one in there we just get one from outside and bring it in.

Q. Was any typing done at this point?

A. Yes, sir.

Q. Who asked the questions, if you recall?

A. I asked the questions.

Q. I show you what has been previously marked as Respondent's Exhibit No. 1 for identification, and ask you to take a look at that document and see if you can tell us if you can recall anything about it?

A. This is the statement that Detective Lenz and myself took from——

63 Q. Who asked the questions that are in that particular document?

A. I did.

Q. Who typed up the document?

A. Detective Lenz.

Q. And who was present while this was going on?

A. Mr. Richard Brown, Detective Lenz and myself.

Q. Is it a true and a—does that, those two sheets of paper truly and accurately portray the questions and answers that were given on that day?

A. Yes, sir.

Q. This took place once again, where?

A. In the Area 4 headquarters, second floor, middle interrogation room. I believe it is marked Room 206 on the door.

Q. Is there a signature marked on the bottom of both sheets?

A. Yes, sir.

Q. Whose signature is that?

A. Richard Brown.

Q. Did you see the defendant affix his signature?

A. Yes, sir, I did.

Q. Did he do so in your presence?

A. Yes, sir.

Q. Now, prior to the warnings or even after the Con-
64 stitutional warnings that you testified to was the defendant threatened in any way by anyone in your presence?

A. No, sir.

Q. Was he promised leniency in any way in your presence?

A. No, sir.

Q. Was the defendant allowed to smoke or have liquids, water or anything.

Mr. Howard. Your Honor, I object to the leading form of the questions by the State's Attorney.

The Court. You are leading the witness.

Mr. Cusick. Q. What was the defendant—were any privileges extended—strike that.

Were any personal privileges extended to the defendant at any time?

Mr. Howard. I object to that form of the question, if the Court please.

The Court. Sustained.

Mr. Cusick. Now, approximately how long did this statement take?

The Witness. A. The statement that we took was I would say approximately half an hour.

Q. Upon completion of it what happened next?

A. Mr. Brown stated that he would try and assist us
65 in apprehending Mr. Claggett, and at this time we left

the area and we went to the vicinity of Madison and Homan, Madison and St. Louis.

Q. When you say we, who do you mean?

A. Detective Lenz, myself and Mr. Brown.

Q. On your initial attempt to go to Homan and Madison were you successful in locating anyone?

A. No, sir. Mr. Brown told us that this was the area that Mr. Claggett frequents, and we looked for him for quite a while, and we didn't know what he looked like so we decided to leave the area and we went down to the Bureau of Identification at 11th and State, see if we could obtain a picture of Mr. Claggett.

Q. Were you successful?

A. No, sir, we were not.

Q. Did you again leave 11th and State?

A. We left 11th and State and we were going back to the area. We decided to go back out west and try one more time to see if we could see Mr. Claggett. We went around the area a few times, and as we went south on St. Louis as we were approaching Monroe Street, several people were crossing the street in front of our car. Mr. Brown was in the back seat,
shouted, "There is Mr. Claggert, now. Grab him." And
66 Detective Lenz and I got out of the car and we apprehended Mr. Claggett, placed him under arrest and transported both Mr. Claggett and Mr. Brown back into Area 4 headquarters.

Q. Approximately what time did you arrive back at Area 4 headquarters with the now two people arrested?

A. This would have to be sometime after midnight. Sometime between midnight and 12:30 A.M.

Q. Where was the defendant brought when you returned to the station at this time?

A. We brought Mr. Brown back into the same interrogation room. We placed Mr. Claggett in another interrogation room.

Q. At this stage of the proceedings, did you have an opportunity to observe the physical condition and demeanor of the Defendant Richard Brown?

A. Yes, sir, I did.

Q. Will you describe his appearance and condition then?

A. He was well groomed at the time. Was no physical marks or anything on him. There was no visible signs of any type of injury.

Q. Was he talking coherently?
A. Yes, sir.
Q. Do you recall what, if anything, happened at ap-
67 proximately 2:00 o'clock in the morning?
A. I believe around that time the State's Attorney arrived in the area.
Q. Do you recall his name?
A. Mr. Crilly.
Q. Between the time you got to the station until the time Assistant State's Attorney Crilly arrived, who was in the defendant's presence?
A. Mr. Brown?
Q. Yes.
A. Either be Detective Lenz or myself.
Q. I see. And during this period of time was any promises of leniency made in this direction toward him?
A. No, sir.
Q. Was he physically abused or harassed in any way, if you know?
A. No, sir.
Q. Now what happened at 2:00 o'clock when Mr. Crilly arrived?
A. Mr. Crilly arrived and we explained the facts of the investigation up to this point, and then he went in and he talked to Mr. Brown for approximately 20 minutes, maybe a half hour.
Took an oral statement, I believe, then sat down——
68 Mr. HOWARD. Objection.
The COURT. Sustained.
Mr. CUSICK. Q. You weren't in the room when Mr. Crilly was talking to him?
A. No, sir, I wasn't.
Q. Did Mr. Crilly come out of the room?
A. Yes, sir.
Q. And what happened next?
A. Mr. Crilly said that he was going to take a written statement from Mr. Brown, and myself; Mr. Crilly and the court reporter entered the room and the four of us sat down and Mr. Brown gave a written statement.
Q. This took place in what room now?
A. I believe the same room, Room 206.
Q. Were you present when any Constitutional warnings were

administered to the defendant prior to this recorded statement by the court reporter?
A. Yes, sir, I was.
Q. Were those warnings in substance the same warnings you testified to a few minutes earlier?
A. Yes, sir.
Q. What was the defendant's reply to these new set of warnings by Assistant State's Attorney Crilly?
A. He stated that he understood them.
69 Q. I show you what has been previously marked as Respondent's Exhibit No. 2 for identification and ask you if you had a chance to peruse that at all today at any time?
A. No, sir, I have not.
Q. You are looking at it for the first time today, is that right?
A. Yes, sir.
Q. Just looking at Page No. 1, do you recall any——
Mr. HOWARD. I object to this officer looking at it unless he can identify the document as being his or having prepared it, or having something to do with it previously.
Mr. CUSICK. Q. Officer, were you present when that statement was taken?
The WITNESS. A. Yes, sir, I was.
Q. Is there a date indicated on the front page of that statement?
A. Yes, sir.
Q. What date is that?
A. Tuesday, May 14th, 1968.
Q. Are the parties who were present during that statement indicated on Page 1?
A. Yes, sir.
Q. Who were those parties?
70 A. Richard Brown, John Crilly, Assistant State's Attorney, myself, and reported by Emmett Smith, court reporter.
Q. You do not have an independent recollection of each and every question and answer in this document, is that correct?
A. No, sir.
Mr. CUSICK. Nothing further.
Cross examination by Mr. HOWARD:
Q. Officer, where was Mr. Brown when you placed him under arrest?
A. Where was he?

Q. Yes.

A. He was on the rear porch of an apartment at 3817 West End, I believe is the correct address.

Q. Did your investigation reveal that this was Mr. Brown's private residence?

A. Yes. We were told that was his residence.

Q. You and Detective Lenz was in Mr. Brown's residence waiting for him when he came home?

A. Yes, sir.

Q. You had been inside Mr. Brown's apartment?

A. Yes, sir.

Q. The fact of the matter is Detective Lenz was in-
71 side the apartment when Mr. Brown arrived, is that right?

A. Yes, sir.

Q. What was the first thing that took place between Detective Lenz, Mr. Brown and yourself when Mr. Brown came home?

A. We were in the apartment. There is a window and a door. Mr.—Detective Lenz was seated in front of the window watching the rear. I was sitting at the front door as if he would come up the front stairwell. After we were there for a while, Detective Lenz told me that somebody was coming up the back stairs. I walked out the front door through the hall and around the corner and I stayed there behind a door leading on to the back porch. At this time I heard Detective Lenz say, "Don't move, you are under arrest." I looked out. I saw Mr. Brown backing away from the window. I walked up behind him, I told him he is under arrest, come back inside the apartment with us.

Q. Did he come back inside?

A. Yes, sir.

Q. After you got inside of the apartment, what was the first thing that was said to Mr. Brown?

A. I asked him, "What is your name?"

72 Q. What did he say, if anything?

A. He gave us a different name. I don't recall what it is offhand.

Q. He did not say his name was Richard Brown?

A. No, sir. He did not.

Q. After he gave that different name, what was the next thing that was said by either you or Mr. Brown?

A. I don't recall exactly what the exact words were, but I do know that I had a picture of Mr. Brown, and I was looking at Mr. Brown and the picture and I asked him if this was you. And he didn't say anything.

Q. After that, what was said or done?

A. We told him that he was under arrest for the investigation of a homicide, he was coming into Area 4 to check to find out for sure if he was, in fact, Richard Brown.

Q. Were those your words, "You are under arrest for investigation of a homicide,"?

A. Or words to that effect.

Q. Did you mention the name of the deceased?

A. I don't recall if I did or not, sir.

Q. Did you hear Detective Lenz mention the name of the deceased?

73 Mr. CUSICK. I am going to object at this time as being irrelevant.

The COURT. Let him answer if he knows.

The WITNESS. A. I don't recall. I know we were working on the Corpus homicide. I don't know if the name was mentioned or not.

Mr. HOWARD. Q. After you showed Mr. Brown his photograph, he didn't say anything, did you or Detective Lenz say anything else to Mr. Brown while he was in the apartment?

A. I don't recall.

Q. As you left the apartment, what did you—when you first left the apartment where did you go?

A. We went down the front stairs and we went through a—this is West End Avenue, our car was parked out on Washington Boulevard which is about a half block south. We walked through a lot on to Washington Boulevard and got into the squad car.

Q. What part of the car did Brown get in?

A. Rear seat.

Q. Anyone get in the rear seat with him?

A. No, sir.

Q. Was he handcuffed?

A. I don't believe so.

Q. Did any conversation take place between you and
74 Mr. Brown as you walked from the apartment to the automobile?

A. No.

Q. Nobody said a word?
A. I don't think so, no.
Q. As you rode in the automobile down to the station, did anybody say anything?
A. I believe I asked him if his name was Richard Brown, and I believe I also asked him if he owned an automobile.
Q. What did he say when you asked him if his name was Richard Brown?
A. At first he said nothing, and then as we were getting to the station I told him that we would fingerprint him and that we would find out one way or another if he was, in fact, Richard Brown, and then he said, "Well, you know I am Richard Brown."
Q. That was as you were riding down to the station?
A. Yes, sir.
Q. Can you think of anything else that was said between you, Richard Brown and Officer Lenz as you were in the apartment and as you rode down to the station?
A. Well, I know that he was telling us about his radio in there, and how he knew—how he felt that
75 someone might be in the apartment.
Q. Anything else you can recall?
A. No, sir, I don't think so.
Q. After you arrived in the station, what was the first thing that was done?
A. We escorted him into the interrogation room at the west end of the station.
Q. What floor was this?
A. On the second floor.
Q. As you entered the station, did you say anything to anybody?
A. To anybody?
Q. Yes.
A. I don't believe so, no.
Q. Did you—when you went up to the second floor, did you speak to anybody as you took Mr. Brown up to the second floor?
A. No, sir.
Q. Did you speak to the sergeant up there?
A. No, sir, not at this time.
Q. All right. Now, you took Mr. Brown into an interrogation room. What happened after you got into the interrogation room?

A. Sat him down in a chair, walked into our command
76 office which is about ten, twenty feet away from the interrogation room, told the sergeant on duty who was there that night that we had Richard Brown in custody, got the file, homicide file that we keep in our file drawers, and we walked back into the room with the file.
Q. What happened after that?
A. We sat down. We told him, gave him his Constitutional rights to remain silent——
Q. No, no. Tell me what was said and what was done?
A. I walked into the room, sat down. There is a table in the room. Mr. Brown was on one side of the table, Detective Lenz and I were on the other side of the table. We opened the file, put the file down on top of the table. Detective Lenz said, "Before we start anything, I want to tell you of your Constitutional rights to remain silent." He listened all four points.
Q. Tell me exactly what Officer Lenz said and what he did. He sat down, opened up the file, then he said, "I want to warn you about your Constitutional rights," something to that effect, is that right?
A. That's right.
Q. Then Officer Lenz continued to talk, is that right?
A. As far as I know, yes, sir.
77 Q. What was the first thing that Officer Lenz said that you can remember?
A. "You have a right to remain silent."
Q. What was—when he said that, you have a right to remain silent, what did anybody else say, if anything, after that?
A. Nothing.
Q. What was the next thing that Officer Lenz said?
A. "You have a right to an attorney."
Q. What did Officer Lenz say or anybody else say in the room after he said you have a right to an attorney?
A. "That anything you say or write can be used against you at a later time in Court."
Q. What else—What else did Officer Lenz say or Detective Lenz?
A. "You have—if you can't afford an attorney, an attorney would be appointed for you. And an attorney can be present during any questioning during the statement." And then when

he was through he asked him if he understood everything that he had said. He stated that he did.

Q. After he said, "I understand everything you said——"

Q. Pardon me?

78 Q. After Mr. Brown said, "I understand everything that you said" speaking to Officer Lenz——

A. Yes.

Q. What was the next thing that Officer Lenz or Mr. Brown or you said?

A. We asked him if he would like to tell us about what happened, about this fatal shooting of Mr. Corpus.

Q. What did Mr. Brown say, if anything?

A. We told him that we knew of the incident in the pool room where a bullet was—gun was fired by Mr. Brown.

Q. What exact words did you use when you talked to Mr. Brown about firing a gun in the pool room?

A. "We talked to people that know you and were in the pool room when you fired a revolver into the ceiling of the pool room. The bullet was extracted from the ceiling of the pool room and also the bullets that were fired into the body of Roger Corpus were removed and they were presently in our crime lab being compared to see if they came from the same gun."

Q. What else did you or Officer Lenz say at that time?

A. He after we said that, Mr. Brown said, "Well, you know about the incident in the pool room." Then he went on

79 and he said, "I want to tell you the truth." He said, "I want to get it off my chest. The best thing to do is to tell the truth."

Q. Officer, did you or Officer Lenz or anybody else in the station in your presence tell Richard Brown what the punishment was if he was convicted of murder?

Mr. CUSICK. I will object to this form of this question.

The COURT. Sustain the objection.

Mr. HOWARD. Pardon me, your Honor?

The COURT. Sustain the objection.

Mr. HOWARD. Judge, we are trying to find out whether this man made an intelligent waiver of certain rights that he had, and I don't know how we can find it out unless we go into conversation that took place.

The COURT. This conversation about advising him what the

sentence is for murder, and so forth, doesn't accomplish that. You have any other reason for it?

Mr. HOWARD. Judge, I don't know if I can put it in a nut shell, but as his lawyer, I am trying to find out because I wasn't there as to what this man understood about what the officer was telling him before he made the statement. And we can't really know what he understood, how well—what the circumstances were unless we know how intelligent he

80 was at the time the officer warned him.

The COURT. I think you have asked this officer what he said. Now, what you are doing is negativing whether he told him what the sentences were. A police officer is not a Judge or a lawyer.

Mr. HOWARD. Judge, we are trying to get to, this is what I am trying to get to.

The COURT. Don't have to get to it. I know that. You don't have to get to it.

Mr. HOWARD. Is the Court now preventing me from asking the officer those questions?

The COURT. I sustained the object to the question.

Mr. HOWARD. Q. Did you, officer, take Mr. Brown before any magistrate or Judge after you arrested him on May 13th, some time after 7:00 P.M.?

The WITNESS. A. No. He appeared in Court the following morning.

Q. But prior to the time he made any statement to you concerning this death, you didn't take him before any Judge or magistrate, did you?

A. No.

Q. After he had initially made a statement to you and Officer Lenz and after he had signed that statement, you

81 did call the State's Attorney, didn't you, an Assistant State's Attorney?

A. Yes, sir.

Q. Did you tell State's Attorney Crilly when he arrived at the station that Mr. Brown had made a statement to you and had signed it?

A. Yes, sir?

Q. Officer, I show you what has been identified as People's Exhibit No. 1, and I believe that you have looked at it and stated that you recognize that document, is that right?

A. Yes, sir.

Q. I believe you said that that is the statement including the questions and answers that were put to Mr. Brown on May 13th, 1968, is that right?

A. Yes, sir.

Q. This was signed by Mr. Brown?

A. Yes, sir.

Q. I ask you to look at that document carefully, Officer. Does Mr. Brown state in that document anywhere that "I don't want a lawyer"?

Mr. CUSICK. Once again enter an objection, and I will stipulate we don't maintain that particular document has the rights enumerated in it. But the warnings were given orally before.

Mr. HOWARD. Again, if the Court please the State's
82 Attorney has had the document identified as being the statement that they hoped to introduce in evidence against this defendant during the course of a trial.

The COURT. Let him answer. I think it was sufficiently shown by the previous witness.

Mr. HOWARD. I want to be careful——

The COURT. It is redundant.

Mr. HOWARD. Very well, but I want to be sure the record is clear as to each one of the witnesses who take the stand.

The WITNESS. A. He was advised that he could have an attorney.

Mr. HOWARD. Q. No. That is not what I asked you. I say does that document state, does it say in that document that Mr. Brown said, "I don't want a lawyer"?

A. Those words are not here, no, sir.

Q. May I see the document again? Does that document say that you or Officer Lenz told Mr. Brown that anything he said could be later used against him in a Court of law or any other place?

A. Yes, sir, it is implied in there.

Q. Where does it say that?

A. "Question. You have been advised of your Constitional rights relative to not having to say anything and the fact
83 that you can have an attorney present at this time, is that correct?"

Q. That is not what I asked you. I asked you if that document stated that you or Officer Lenz told Mr. Brown that if—that any statement he made could be used against him? I am asking you if that statement is in that document?

A. The words that you are using, counselor are not in this statement.

Q. That is what I asked you. In that statement that you have there signed by Mr. Brown the questions that were put to Mr. Brown and answered by him, does that document state that "If you don't have funds to hire a lawyer, the State will furnish one for you here and now"?

A. No, sir, those words are not here.

Mr. HOWARD. No further questions.

The COURT. I have a question I want to ask you. Do you know when the defendant here was booked?

The WITNESS. A. When he was booked?

The COURT. Yes.

The WITNESS. The exact time?

The COURT. Yes.

The WITNESS. A. That would be on his arrival at the central detention. It would be on the arrest record. I don't have it personally, your Honor.

The COURT. Can you tell us at what stage of this inter-
84 rogation and his custody that he was booked? What stage did it occur? Was this before or after this document that you saw here, what is that People's Exhibit?

Mr. CUSICK. Respondent's Exhibit No. 1.

The COURT. No. 1. Was it after that?

The WITNESS. A. He was placed under arrest before this statement.

The COURT. That isn't what I asked. I asked you when he was booked.

The WITNESS. A. He was booked after this statement was taken.

The COURT. All right. Do you know whether he was booked before or after the State's Attorney took a statement?

The WITNESS. A. It would be after.

The COURT. After?

The WITNESS. A. Yes, sir.

The COURT. It would be some time during the morning of the following day when you took him into custody, is that right?

The WITNESS. A. That is correct.

Mr. CUSICK. One question, Officer. The booking——

The COURT. In other words—just a moment, there
85 was no formal charge placed against him until he was booked, is that right?

The WITNESS. A. I believe that is the system, yes, sir.

Redirect examination By Mr. CUSICK:

Q. Officer, he wasn't booked until he was brought to 11th and State?

A. That is correct.

Q. This would have been after any statement taken by Assistant State's Attorney John Crilly?

A. That is correct.

Mr. CUSICK. Nothing further.

Recross examination by Mr. HOWARD:

Q. Officer, while Mr. Brown was in the Maxwell Street Station prior to the time that he made this statement, was a lawyer brought to the Maxwell Street Station to defend him?

A. No, sir.

Q. Was a lawyer brought there after the first statement was made?

A. No, sir.

Q. Who called the Assistant State's Attorney?

A. I believe I did.

86 Q. Was any attorney there for Mr. Brown when the Assistant State's Attorney spoke with him?

A. No, sir.

Mr. HOWARD. No further questions.

Mr. CUSICK. No further questions.

The COURT. You may step down.

(Witness excused.)

Mr. CUSICK. The State at this time would offer in evidence Respondent's Exhibits No. 1 and No. 2 into evidence as Respondent's Exhibits No. 1 and No. 2. We would ask in the case of Respondent's Exhibit No. 2 that the defense counsel would stipulate that if court reporter Emmett Smith were called to testify he would testify that he truly and accurately transcribed the substance of the conversation at the time it occurred.

Mr. HOWARD. I will stipulate he would say that.

The COURT. Any objection?

Mr. HOWARD. Yes, I would object to the documents being received in evidence, because this is the very subject matter of the whole petition. Until after the Court has heard all of the evidence concerning these documents.

The COURT. I think you are quite right.

Mr. CUSICK. I will withdraw my offer at this time 87–100 and reserve it for a later time.

The COURT. All right.

Mr. CUSICK. With that, the State would rest.

The COURT. Okay.

Mr. HOWARD. Your Honor, I move at this time that the petition to suppress filed on behalf of the defendant be sustained. The basis of—or the grounds in support of my motion, if the Court please, I believe that the State has shown by its efforts to show that the statement was free and voluntary, I believe they have shown the Court that it was not a free and voluntary act.

(Thereupon arguments on motion to suppress were had.)

101 The COURT. Motion overruled.

Mr. HOWARD. Take the stand.

RICHARD BROWN, called as a witness on behalf of the Petitioner, having been duly sworn, was examined and testified as follows:

Direct examination by Mr. HOWARD:

Q. State your name, please.

102 A. Richard Brown.

Q. Where do you live?

A. 3847 West End.

Q. How old are you?

A. Twenty-two.

Q. Calling your attention to May 13, 1968, were you placed under arrest?

A. Well, yes.

Q. Where were you when you were arrested?

A. I was at Area 4 Homicide when I was arrested.

Q. Did you have occasion to come in contact with some police officers on May 13, 1968, before you went to a police station?

A. Yes, I did.

Q. Where was that contact made?

A. This was at my house at 3847 West End.

Q. What time of the day or night was it?

A. This was at 7:30 P.M.

Q. Where were you when you first saw the police officers?

A. I was standing on the back porch looking into my house.

Q. What was the first thing you saw?

A. I saw Officer Lenz pointing a snubnose .38 at my head and told me to hold it.

103 Q. What happened after that?

A. After that Officer Nolan ran out and he had his gun in his hand. He said, "Come on in." I walked inside and when I got inside then they asked me who I was and I didn't tell them my name.

Q . Don't tell me what you didn't do. Tell me what the officers said to you and what you said to them.

A. Well, he said, "Come on in inside." When I got inside he asked me who I was.

Q. You say he, who are you referring to?

A. Officer Lenz.

Q. All right.

A. He said, "You are Richard Brown, aren't you?" I said, "No."

Q. What did he say and what did you say after that?

A. He said, "Check his ID," and Officer Nolan went in my back pocket and came out with a wallet, and he said, "What were you doing here if you are not Richard Brown?" And I said, "I am looking for Richard Brown." He said, "You lying." He said, "You live here. Your landlady told us you live here." I said, "Well, no, I am not Richard Brown." So he found a few tickets I had laying in the house. He said, "Come on."

104 They taken me down the back stairs, through the alley to the car, put me in the car. He pulled up a picture and say, "We have been looking for you." He said, "We caught you sooner or later."

Q. Did the officer have a warrant for you?

A. No, he did not.

Q. Show you one?

A. No.

Q. Did he have a search warrant to search your apartment?

A. No, he did not.

Q. Did any conversation take place as you rode from the apartment down to the police station?

A. Yes, it did. Officer Lenz said that I was on five years probation. I told him he had the wrong Richard Brown. Officer Nolan said that, I had some traffic tickets on me, he said that I had a '66 Oldsmobile. I told him my friend had one, I didn't. So they drove me to Area 4 Homicide, taken me upstairs, and Officer Lenz taken me, there is a little booth like. It as a sergeant

sitting in there at a desk and there was another officer sitting on this side of the desk, and I was standing there with my hands behind my back, I was handcuffed, and he told the

105 sergeant, he said, "We picked him up." And taken me in a little room.

Q. Just a minute. When was the handcuff first placed on you?

A. The handcuffs were placed on me at the house. Officer Nolan placed the cuffs on me because Officer Lenz had the pistol pointing at my—I was facing him and he had the pistol leveled at my stomach.

Q. After you arrived at the station what did you say happened?

A. After I arrived at the station they taken me to the second floor into a little booth like, like I am in now, but only there was two desks in there and two police officers. Officer Lenz said, "Sarge we have got him. We picked him up." So he said—the sergeant didn't say anything. He walked over and looked, he said, "Take him in the room in there." And Officer Lenz taken me in the room. He sit me down. Then Officer Nolan came in behind me because Officer Nolan didn't come all the way to the sergeant's office where Officer Lenz and I was at.

Q. After you had been taken into the room what was

106 the first thing said or done after you got into the room?

A. The first thing was said to me when I came into the room was that they found out I had shot a gun in a pool room, and that the gun I fired in the pool room those bullets matched up with the bullets in the dead man. I told them that I didn't know anything about it. Then he said, "Well, we have eyewitnesses to you shooting the gun in the pool room." He said, "Plus we found your fingerprints in the dead man's apartment." I said, "What dead man?" He said, "Roger Corpus. You know him, don't you?" I said, "Yes, Roger is a good friend of mine." Then he turns around and says that his brother gives him my name along with a list of other names. This is how they come by me. Then he said after his investigation turns up the pool room incident, he said this is when he decided to come pick me up. After he picks me up and takes me down to the station and we go through this and then he tells me about I got all the evidence pointing at me and if I wanted to get it off my chest I should.

Q. What else was said after he said if you wanted to get it off your chest you should?

A. After he said this, then this is when I started
107 to tell him, give him a statement.

Q. Was anything else said to you before you started giving a statement?

A. No. After I mentioned the defendant Jimmie Claggett's name Officer Nolan got up, went out to get some pictures. He brought back a picture of Jimmie Clay, and he put the picture down in front of me. He says, "Is this the guy?" I says, "No, I never seen him before." He taken the picture out, and Officer Lenz came in the room with a typewriter. He started to typing the things I was saying, but at first I was telling him about all the people I knew that knew Roger. People I had seen up to Roger's house when I was there. I told him I had been a friend of Rogers since about 1962. I told him I knew his brother, his sister, as a matter of fact, I knew his family. I told him I wasn't the one that did it. So he said, "You got all the evidence on you, you are going to have to do something."

Q. What happened after that was said?

A. Well, he told me about his experience in the police department, about some lady——

Mr. CUSICK. Objection.

Mr. HOWARD. Q. When you say he who are you re-
108 ferring to?

The WITNESS. A. I am referring to Officer Lenz. Because wasn't—he and I was only two people in the room because Officer Nolan had taken the picture out and he, he didn't come back until after the statement was gave and signed, and then he came back, and when he came back he told Officer Lenz, he said, "I can't find those pictures of the guy in here." So he said, "Come on, let's go down to 11th and State." This was around 8:30. They taken me down to 11th and State. I sit down in a little chair while the lady goes through files, and she comes up with Jimmie Claggett's address as 384—no, 3832 West Harrison. And they asked me, "Did he live there?" I told them I didn't know. I knew he stayed around Monroe and St. Louis. So we went up there. This was about 9:00, 9:15.

Q. Let me ask you this. When you left the Maxwell Street Station to go to 11th Street to look at the pictures did somebody ask you to go?

A. Well, then—before we left he told me I would have——

Q. When you say he who are you referring to?

A. I am referring to Officer Lenz. He told me that I would

have to help him catch Jimmie in order to clear
109 myself.

Q. Is that what you were doing?

A. Yes, I was, because I knew I didn't have anything to do with it.

Q. Before you made a statement to Detective Nolan and Detective Lenz concerning your knowledge about this case did you understand that you had a right to have a lawyer present right then and there in the police station?

A. No. Officer Lenz told me that he would have me a lawyer down there, he was going to call me one, but the lawyer he called wasn't for me.

Q. He said he was going to call you one?

A. Yes, he said he was going to get on the phone and call a lawyer and when the lawyer came down he said he would either, he would either turn me aloose then but I would have to help him catch Jimmie.

Q. When you were around with Officer Lenz or Detective Lenz and Detective Nolan looking for Jimmie did you think at that time you were going to be charged and held for murder?

A. No.

Mr. CUSICK. Objection.

The WITNESS. A. He told me——

110 The COURT. Sustain what he thinks.

Mr. HOWARD. Q. Did somebody tell you that? That you were going to be charged with murder?

The WITNESS. A. No, he told me——

Q. You say he, who are you talking about?

A. I am talking about Officer Lenz. He told me he wasn't going to mention the pool room. He told me that flat. He told me, he says, "I am not going to mention that."

Q. When were you first told that you were charged with murder?

A. When the State's Attorney came. This is when I found out I was being charged with murder. But then on the way out the station to the paddy wagon Officer Lenz told me that I didn't have to worry, I would be a State witness in this case because Officer Nolan wrote it down on a piece of paper and slid it to the State's Attorney while the court reporter was there and he and Officer Nolan and the State's Attorney.

Q. Before you made your statement to Officer Lenz, Detective Lenz and Detective Nolan, did you tell either one of those officers that you did not want a lawyer?

Mr. Cusick. Objection. Leading.

111 The Court. What is the basis?

Mr. Cusick. Leading.

The Court. Sustained.

Mr. Howard. Q. On May 13, 1968, when you were arrested, taken to the Maxwell Street Station, did you know what the punishment was for the charge of murder?

Mr. Cusick. Objection.

The Court. Sustained.

Mr. Howard. Q. Did you know what the punishment was for manslaughter?

Mr. Cusick. Objection.

The Court. Sustained.

Mr. Howard. Q. Did you know what the punishment was for involuntary manslaughter?

Mr. Cusick. Objection.

The Court. Sustained.

Mr. Howard. Q. Can you remember or recall anything else that was said between you and the officers at the Maxwell Street Station prior to the time you made this statement? The first statement?

Mr. Cusick. Objection, asked and answered.

The Court. Read the question.

(Question read.)

The Court. Let him answer.

112 The Witness. A. Well, I can recall when I got down to the station Officer Lenz was telling me that I was not going to be charged with the pool room. But he told me that I would have to help him, he said, because the bullets he found in the pool room were the same in the body. He said, "All the arrows is pointing directly at you." I told him then that I didn't kill anybody. Then he said, "Well, you going to have to give me somebody who did." And this is when I told him about Jimmie Claggett, and this is when Officer Nolan gets up and gets the picture. Now, when they read this little card off to me this is after I started giving him the statement. And he told me then he said, "Do you want a lawyer?" He told me I wasn't going to be charged, after all, I didn't need a lawyer. I didn't know he didn't mean that I wasn't going to be charged with this murder. He told me flat, he said, "You are not going to be charged. All I want from you is a statement." "So when the State's Attorney come," he said, "We will see

what he has to say about it," and he say, "We will probably let you go then." He said, "But we are going to call you as a State witness if we catch this guy." And then Officer

113 Nolan come back in the room and said, "I can't find the pictures." And then this is when he taken me to 11th and State.

Mr. Howard. Q. Did you assist the officers in finding Jimmie Claggett?

A. Yes, I did.

Q. Was Jimmie Claggett also charged with murder?

A. No.

Q. Did you ever appear in this building with Jimmie Claggett?

A. Well, on the morning before 10:00 when I arrived here the State's Attorney came to me and he asked me to sign some more papers. I told him I wasn't going to sign any more papers until I got a chance to talk to somebody that was on my side. That is about as far as I can remember, back to the previous days of May 13th and May 14th.

Q. You did not sign the second statement, set of questions in the statement that was given to you by the State's Attorney?

A. No. When I talked to the Public Defender he told me that the——

Mr. Cusick. Objection.

Mr. Howard. Q. Where were you?

The Witness. A. I was in Judge Daniel Ryan's

114 court.

Q. Who was there?

A. State's Attorney Kelly and Public Defender Xenos. When I was advised of my rights I was in front of State's Attorney Oplatka and Public Defender Xenos advised me of my rights and at that time I decided what I had done down at the station was help the officers convict me of a crime.

Mr. Cusick. Object what he decided.

The Court. Sustained.

Mr. Howard. Q. When was the first time you were taken before any judge or magistrate after you were taken into custody at your home?

The Witness. A. May 14th.

Q. What time of the day or night was it when you first appeared before any judge?

A. Well, approximate time I couldn't tell you because it

was after court had started that morning. Estimate the time about 10:00 o'clock.

Q. The judge who you appeared before at that time did he tell you that you have a right to have a lawyer?

Mr. CUSICK. Objection.

The COURT. Sustained.

115 Mr. HOWARD. No further questions.

Cross examination by Mr. CUSICK:

Q. Mr. Brown, you remember telling State's Attorney Crilly that you had eight years of grammar school? Did you go to eight years of grammar school?

A. Yes, I did.

Q. Have three years of high school?

A. No, I didn't.

Q. I will show you what has been previously marked as People's Exhibit number 2 for identification, referring to page 3: "Q. And what is your education?" You want to read the answer there?

A. "A. I have eight years of completion of grammar school and three years of completion of high school."

Q. Well, is that a true statement or a false statement by you?

A. Well, you have some truth and some false mixed there simply because I completed the eight years of grammar school at Our Lady of Sorrows. I never went to high school.

Q. So the statement here "And three years comple-

116 tion of high school" is not true, is that correct?

A. No.

Q. You read and write the English language, is that correct?

A. This is true.

Q. From the time you arrived at the station until the time you left to go to Madison and Homan with the detectives were you aloud to drink any water or any coffee or smoke any cigarettes?

A. I had my own cigarettes.

Q. Were you smoking them throughout the evening?

A. My cigarettes, yes.

Q. Were you allowed to take a drink of water or were you drinking any coffee?

A. No. I didn't drink any coffee. I drank half a cup of water and that is when the State's Attorney came.

Q. At the time you were arrested you stated that Detective Lenz made certain statements to you regarding finding someone else?

A. Yes, he did.

Q. And you gave a written statement at approximately 9:00 o'clock in the evening to Detective Lenz and Detective Nolan?

117 A. At 9:00 o'clock?

Q. Yes. It was before 9:00 because we reached the station, it didn't take us no more than fifteen minutes to get to the station.

Q. Who was present when that statement was taken?

A. Officer Lenz and myself.

Q. Was one of the men typing?

A. Officer Lenz was typing.

Q. Who was asking the questions?

A. Officer Lenz.

Q. Lenz also?

A. Yes.

Q. He was both typing and asking the questions?

A. He didn't ask any questions. Officer Lenz was typing and he told me to tell him exactly what happened.

Q. He didn't ask any questions?

A. He didn't ask any questions.

Q. Prior to this time were you warned of your rights to have an attorney present?

A. Well, like I said earlier I mean he told me I wouldn't need one so I felt that he was telling me the truth.

Q. Did you at any time ever state to Detective Nolan

118 or Detective Lenz that you wanted to be a State's witness?

A. No. Officer Lenz stated that to me. As I was going to say earlier that he told me about some woman that he had put in a hotel on the north side. She was a State witness against her husband. I told him at that point if I turned State's evidence on somebody, I say, and I got away, I say, I am fixing to be killed. And he told me that——

Mr. CUSICK. I object to the last two-thirds of this answer, not being responsive.

Mr. HOWARD. He is trying to answer.

Mr. CUSICK. He is going into something else.

The WITNESS. A. You asked me——

Mr. HOWARD. Wait a minute.

Mr. CUSICK. Q. My question——

The COURT. Read the question back.

(Question read.)

The COURT. Sustain the objection. Strike out the unsolicited portion.

Mr. CUSICK. Q. Ask you again, did you ever tell Detective Nolan or Detective Lenz that you wanted to be a State's witness after you gave your first statement?

The WITNESS. A. No.

119 Q. Did you ever know or ever meet Detective Lenz or Detective Nolan prior to this date?

Mr. HOWARD. Object to that. Immaterial to the issues.

The COURT. Let him answer.

The WITNESS. A. Did I ever meet?

Mr. CUSICK. Q. Ever meet them or know them from anywhere prior to your arrest on May 13th?

A. No.

Q. Can you think of any reason why they would——

Mr. HOWARD. Objection.

Mr. CUSICK. Withdraw the question.

Q. You mentioned something was said about firing a shot in a pool room, is that right?

A. Well, I said Officer Lenz said it.

Q. Did you fire the shot in the pool room?

Mr. HOWARD. Objection.

Mr. CUSICK. Judge, it was brought out.

The COURT. What is the objection?

Mr. HOWARD. The objection, Judge, is not what he did, is not material to this issue. The issue is what, the circumstances under which he made a statement. He can talk about what conversation took place between he and the officers, but what

120 he did, what the officers accused him of certainly can't impose a burden upon a defendant to admit any type of crime in a court of law.

The COURT. Sustain the objection.

Mr. CUSICK. Q. Were you—what type of leniency were you promised by the detectives?

The WITNESS. A. Well——

Q. Said you would go free? Is that what they told you?

A. No, Officer Lenz told me that I would be a State witness in this case. And he also told me that when I got up here that it would be a deal made between the State's Attorney and the Public Defender.

Q. Did you know who the Public Defender was at that point? Did you know what a public defender was?

A. Did I know what a public defender was?

Q. Right.

A. Well, I knew that he told me that they were going to make a deal for me. This is all I was interested in.

Q. You knew what a State's witness was then, didn't you?

A. After he explained it to me, yes.

Q. In other words, State's witness would testify

121 against another defendant. You knew that? You understood that?

A. Yes. This is what he told me.

Q. You understood what a State's witness was?

A. Yes.

Q. Did you understand this before the statement or after the statement?

A. Well, I understood this during the statement.

Q. I see. Did you understand at any time or did you know the State—strike that.

Had you ever heard of a person giving State's evidence prior to this particular night?

A. No.

Q. Ever been in a courtroom prior to May 14th?

A. Of course I have.

Q. Ever been in a courtroom whereby you were charged with an offense of some kind?

Mr. HOWARD. Objection.

The COURT. Sustained.

Mr. CUSICK. Q. What were your duties at Schwinn bicycle?

The WITNESS. A. Well, at Schwinn Bicycle I was chief supervisor there. I worked 540 to 516 polishers; I was head man next to my Foreman on the third shift.

122 Q. Did you have any employees working for you?

A. Yes, I did.

Q. Approximately how many?

A. Three.

Q. What was the nature of your work over them?

A. The nature of my work was thirteen out of sixteen machines.

Q. Did you receive any training to run these machines?

A. No, self-educated.

Q. Self-educated. What kind of machines were they?

A. These were welders, polishers, grinders, scoffers, buffers, stay welders, benders.

Q. Does your work include any clerical or paper work?

A. No.

Q. Did you ever work anywhere else such as a place called Guffman in Niles, Illinois?

Mr. HOWARD. Object to that.

The WITNESS. A. No——

Mr. HOWARD. Just a minute.

The COURT. Let him answer.

The WITNESS. A. I have been working at Arnold Schwinn Bicycle Company since August 18, 1964.

Mr. CUSICK. Q. Were you employed last May 13th
123 at E. I. Guffman in Niles, Illinois?

The WITNESS. A. No. I have been employed at Arnold Schwinn Bicycle since August 18, 1964.

Q. I refer you to People's Exhibit 3, refer you to page 3: "Q. Where are you employed?"

"A. I am employed at E. I. Guffman at the present time."

Were you asked that question and did you give that answer?

A. I can't recall that because if I had been asked that I would simply give my social security number, my badge number, clock number.

Q. You also remember the question: "Where is E. I. Guffman?" And your answer: "They are located——"

Mr. HOWARD. Your Honor, the subject matter of this motion to suppress is the statement that the State's Attorney is now reading to the defendant. Now, he is violating the very thing that we are trying to keep out of the eyes and ears of the Court.

Mr. CUSICK. Your Honor, I am not going into the facts of the case.

The COURT. Matter of impeachment is what it is.

124 Mr. HOWARD. But you can't do it, Judge, on a statement, you can't impeach a witness by a statement that he has not vouched for. He has not vouched for this statement.

The COURT. Matter of weight.

Mr. HOWARD. But, Judge——

The COURT. Doesn't prevent it. It is a question of weight.

Mr. HOWARD. If he can go into that part of the statement in an attempt to impeach him why not go down to the other parts has to do with the case in chief?

Mr. CUSICK. I am making no effort.

Mr. HOWARD. But if you can go any place you can do it all. The subject matter of my motion is to suppress the statement.

The COURT. I wouldn't say that is a correct statement of the law, you can do it in part, you can do it all. You are—he wanted to put the whole statement in, you objected.

Mr. HOWARD. That's right. And I object to him asking any questions out of the statement.

The COURT. I will let him answer.

Mr. CUSICK. Q. At page 3 once again were you asked this question by Assistant State's Attorney Crilly: "Q. Where
125 is E. I. Guffman?" And your answer: "They are located at 1251 North Street in Niles, Illinois."

Recall being asked that question and giving that answer?

Mr. HOWARD. Judge, again raise an objection.

The COURT. Let him answer.

Mr. HOWARD. Let the record show this, Judge, that the statement—questions that are being put to the defendant at this time is beyond the scope of the direct examination. There was never anything said about his employment.

The COURT. This is cross examination. This is a matter of testing his memory, I presume.

Mr. CUSICK. Q. Do you recall giving that answer?

The WITNESS. A. No.

Q. Do you recall being asked: "What do you do at that plant?" And your answer: "Punch press operator."

A. At E. I. Guffman?

Q. Yes.

A. No.

Q. You did not—you never worked at E. I. Guffman?

A. I haven't worked any place but Arnold Schwinn Bicycle Company.

Q. One other point. Referring to Respondent's Ex-
126 hibit 1 for identification is this your signature at the bottom of both pages?

A. Yes.

Q. That is your signature. Were you physically beaten in any way that evening? The evening of May 13th?

A. No.

Q. Were you threatened by anyone?

A. No.

Mr. CUSICK. Nothing further.

565-219—74——5

Redirect examination by Mr. HOWARD:

Q. Mr. Brown, the State's Attorney asked you if Detective Lenz or Detective Nolan—strike that. Asked if you stated to Detective Lenz and Detective Nolan that you wanted to be a State's witness. Remember him asking you that?

A. Yes.

Q. You said that you did not say that?

A. No, I did not state it to him.

Q. Who was the first one mentioned something about a State's witness?

A. Officer Lenz.

Q. Specifically what did Officer Lenz say to you?

A. Officer Lenz told me that he would make me a
127 State's witness in this case. He told me after I had testified against this guy that I would get a deal from the State's Attorney and the Public Defender.

Q. Was that before you made a statement, before you made a first statement?

A. No, this was during the statement.

Q. During the statement?

A. This was during the typing of the statement.

Mr. HOWARD. No further questions.

Recross examination by Mr. CUSICK:

Q. Did you understand when Detective Lenz allegedly made this statement to you regarding a deal, did you understand what he meant by deal?

A. Well, he told me that——

Q. Well, no, just answer my question.

Did you understand what he meant by deal?

A. I am not sure.

Q. Then did you understand or did you not?

Mr. HOWARD. Objection.

The WITNESS. A. I am not sure.

Mr. HOWARD. He has answered the question.

Mr. CUSICK. Q. Well, then if you are not sure then
128 you didn't understand anything else neither, did you?

The WITNESS. A. I understood, see but you asked me a question that I can say yes or no to and I would be either lying or telling you the truth, and I am trying to give you the truth. You asked me did I know what he mean. I know what

he said and you asked me did I know what he mean. I am trying to tell you what he told me.

Q. At the time you were arrested the policemen asked you your name and you give them another name, is that right?

A. This is true.

Q. What was this name you gave?

A. Eugene Yates.

Q. You knew they were police officers at that time?

A. No, I didn't.

Q. Did they declare themselves to be police officers?

A. No.

Q. Did they show you a badge?

A. No.

Q. You were lying at that time, is that right?

A. I was lying?

Q. You were lying to the men you—when you gave them another name you were lying at that time, right? Your name is Richard Brown, is it?

129 A. Yes, it is.

Q. At the time you gave them another name you were lying at that time, right?

A. Yes.

Mr. CUSICK. Nothing further.

Mr. HOWARD. No further questions.

(Witness excused:)

130–131 The COURT. All right, motion to suppress the confessions is denied and overruled, and People's Exhibits, what are they? 1 and 2 you are offering?

Mr. CUSICK. Yes, sir.

The COURT. Admitted in evidence as People's Exhibits 1 and 2. What about a date here now?

* * * * *

132–292 PROCEEDINGS AT TRIAL

Cause called for trial before the Honorable Saul A. Epton, Judge of the Circuit Court of Cook County on January 14, 1970.

293 ERNESTINE E. CORPUS, State Witness—

Direct Examination by Mr. VAN ZEYL:

My name is Mrs. Ernestine E. Corpus. I live at 3126 West Monroe Street in Chicago. Roger Corpus was my son. On May 5, 1968 Roger was living with me.

We lived at that time at 3126 West Monroe Street on the

second floor. That building is an apartment building consisting of six flats.

As you walk into the building we live on the left side of the stairway. The door leading to the upstairs was on the right. My son lived directly over me.

* * * * *

294 Q. Calling your attention to May 5th, 1968, at about a quarter to 12:00 at night, or close to midnight, were you at home?

A. Yes, I was.

295 Q. And were you alone or with someone else?

A. I was there with my mother and my youngest daughter.

Q. What is your daughter's name?

A. Constance Corpus.

Q. What were you doing when you were home at that time?

A. We were just sitting in the living room looking at television.

Q. Where is the living room located with regard to the front of the building?

A. The living room is in the front of the building on the left.

Q. Calling your attention to about that same time, did you have occasion to see anybody enter your building?

A. Yes, I did.

Q. And was it one person or more than one person?

A. There was two young men.

Q. You say they were men?

A. Yes.

Q. Do you see either of those men in the court room at this time?

296 A. Yes, I do.

Q. Would you point to him, please?

A. This Richard.

Q. Which person are you referring to?

A. The young man in the green suit. (Indicating)

Q. Indicating for the record the defendant Richard Brown.

A. Yes.

Q. Had you ever seen him before May 5th, 1968?

A. No, not that I recall.

Q. What, if anything, did he and this other man do after they entered your front door?

A. Well, they were walking in the vestibule making a little noise, I guess, from the door opening and their footsteps. And there is glass in all of those doors where I could look out and see that somebody was in the vestibule.

Q. Is that when you saw the defendant?

A. Yes.

Q. Did they go anywhere after you saw them?

A. Yes. I kept waiting to see if they were going to ring my bell and he looked over the curtain that I have on the door and

297 I wondered who was that peeping in, so I went to the door and took a good look and he didn't ring the bell, and my daughter—when I remarked, I wonder what are they peeping in here for, my daughter, she went and looked and then they went upstairs.

Q. Do you know where they went upstairs?

A. Well, they went into my son's apartment because I could hear them walking just over my head.

Q. What time did you go to bed that night, Mrs. Corpus?

A. I must have gone to bed around 1:00 o'clock because——

Q. You have answered my question. Did you have occasion, before you went to bed or after you went to bed, to hear anything else in your son's apartment upstairs?

Mr. KITSOS. Objection. Leading, your honor.

The COURT. Overruled. You may answer.

The WITNESS. Yes, I could hear footsteps, somebody walking around. There was a little noise other than just walking but I didn't attach any importance to it.

Mr. VAN ZEYL. Q. What noise would that have been, if you know?

298 A. Well, it sounded like kind of a shuffling noise. Like they might have been dancing or—not a lot of noise.

Q. Did your son own a television set, if you know?

A. Yes, he did.

Q. Did he own any other types of—well, let's say like a hi-fi or record players?

A. Yes, my son was very musical, he had an electric organ, all kinds of hi-fi equipment and a television.

Q. Did you hear any music playing that night?

A. Well, I couldn't hear—I can hear him when he plays the organ. He had been playing the organ but not after 12:00.

* * * * *

299–306 I must have gotten up around 8:00 or 9:00 the next morning—Monday, May 6. Around 5:00 p.m. that afternoon of May 6. I spoke to Mrs. Johnson who occupied the second floor rear apartment. She lived to just the rear of my son's apartment.

After I talked to her we went upstairs to my son's apartment. When we got to my son's apartment we noticed music playing, and the door was opened about two feet wide.

(State's Exhibit No. 1 marked for identification, a photograph of the building.)

When I got up the stairs and in front of my son's apartment I walked it. I entered his dining room and looked in the kitchen. He was not there. The lights were on and the music was playing. I walked to the living room and saw him lying on the floor.

(State's Exhibits Nos. 2 and 3 marked for identification, photographs of the interior of the room.)

My son was 27 years old.

(State's Exhibits Nos. 4, 5, 6, marked for identification, photographs of the body.)

When I saw my son lying on the floor I noticed he was lying on top of his record albums. His feet were tied with electric white looking cords. My daughter Constance then called the police.

307 Q. About what time, if you know, were the police
308 called?

A. Well, they were called within a half hour of the time that they were up here.

Q. Did they arrive on the scene?

A. Yes, they did.

Q. About how long after you called them did they arrive on the scene?

A. They were there within five minutes, and they also called the Fire Department.

* * * * *

309 * * * * *

I did not notice if the police searched the apartment. They wouldn't let me go up there while they were there. After they left I searched the apartment.

Q. Did you find anything of your son's that was missing?

A. Oh, yes.

Q. What was missing?

A. Well, his credit cards and a lot of his clothing and his wallet, and, well, everything of any value small things.

Q. Did your son own an automobile?

A. Yes, he did.

Q. Did he carry keys?

A. Yes, his keys were missing, too.

Q. Do you know whether or not your son kept any money up in his apartment?

A. Well, I am sure he did.

Q. You don't know for certain, though?

A. Yes, I know he had to keep some money there.

Q. Do you know how much he had at that time?

A. No, I don't know the exact amount.

Q. Did you find any money at all in his apartment?

A. No, we didn't find any money at all.

Q. Was any money found on his person?

A. No.

310—311 When was the next time after May—the late evening hours of May 5th that you saw the defendant Richard Brown again?

A. I next saw him at the coroner's inquest.

Q. And was that about a month later?

A. Yes, it was in June.

* * * * *

312–315 Cross Examination by Defense Counsel:

I did not go out of my house on Sunday May 5, 1968. On Sunday May 5 possibly one or two o'clock in the afternoon I saw my son come down and go to the store to buy some groceries which he brought back. I did not see him any more that day but heard him playing his organ right above my head.

I do not know from my own knowledge what happened that night in my son's apartment before I found him there on Monday.

I talked with the police officers after they arrived. I talked with the police about the individuals I noticed in the vestibule and I told him I didn't know the names of the people who were in the vestibule.

316 * * * * *

Q. And you recall that it was Richard Brown that you saw in the vestibule?

317 A. Well, at the time I didn't know his name.

Q. But, in any event, you saw my client, Richard Brown, in the vestibule that night?

Mr. VAN ZEYL. Objection. Asked and answered.

The COURT. Overruled.

Mr. KITSOS. Q. Or who you now know to be Richard Brown in the vestibule that night?

A. Yes.

Q. And there was another individual with him at that time?

A. Yes.

Q. And you approached the glass to take a better look at these men, is that your testimony, ma'am?

A. Yes.

Q. Is your vestibule lit by an electric light bulb?

A. Yes.

Q. Was it on that night?

A. Yes.

Q. How much of the body of these men could you see? Could you see from their knees up?

A. No, no.

Q. What could you see?

318 A. The light is up high.

Q. Yes.

A. Right possibly even with the top of the curtain, because at that time the curtain didn't reach all the way up to the top, there was a space of maybe two inches above the top, and that's what I could see, actually, by the light.

Down further I was looking through the curtain, I could just tell what they had on, but I didn't see their feet.

Q. Could you see their waist?

A. Yes.

Q. From the waist up you could see them?

A. Yes.

Q. Could you see their hands?

A. No, I don't remember their hands.

Q. But if you had looked at their hands you would have seen them?

Mr. VAN ZEYL. Objection.

The COURT. Sustained.

Mr. KITSOS. Q. In other words, was there a clear—did you have a clear view of the upper part of these men's bodies as they were in the vestibule?

319 A. No, I had a clear view of his face because there was no curtain up by his face, and the light was right on his face.

Q. And the curtain, I take it, was on the side of your door?

A. Yes.

* * * * *

320 When I went to bed at 1:00, I had not heard any noises up to that time. When the individuals first went in I heard some noise and a little scuffling around, but then I went to the rear of the house and I didn't hear anything. After I went to bed at 1:00 I did not hear any noises of any sort because my bedroom was in the rear. I did not hear any pistol shots either before or after I went to bed.

I was home all day Monday, May 6. I got up around 8:00 or 8:30 in the morning and did not go out of the house. At about 5:00 Mrs. Johnson came down and the two of us went to my son's apartment.

321–327 CONSTANCE DELOACH, State witness testified as follows—

Direct Examination.

I reside at 3126 West Monroe. Ernestine Corpus was my mother. Roger Corpus was my brother.

On May 5, 1968 I was living at the same address. I was living on the first floor with my mother. I did not see my brother on May 5, 1968.

On May 5, 1968 near midnight I was in my mother's apartment in the living room watching television with my mother and my grandmother who was seventy years old. Near midnight I saw two men come into the vestibule. One of them was a very tall man who looked into the window and then went on upstairs. The defendant in this cause was the one who looked in the window and then went upstairs.

I had seen the defendant in this cause, Richard Brown before. We went to grammar school together. I did not recognize the other person with him.

Later on in the evening I heard walking noises in my brother's apartment, but it could have been anything because there are rugs on the floor.

I went to work on Monday, May 6, 1968. I arrived home from work that day at about 5:00 or 5:30. When I came in I met my mother and she told me something had happened to my

brother, he was upstairs on the floor. I went upstairs immediately.

When I entered his apartment he was lying flat on his stomach. I could see he was dead so I went downstairs and called the police. I noticed his arms were tied and his legs were tied and he had a rope around his neck and there was blood on the rug.

328–332 My brother kept identification on his person or in his apartment all the time. He also kept money and keys and things of that nature about his person in his apartment.

I think the police searched his person and did not find anything. I did not know if the police searched the apartment. After the investigation was carried out I searched his apartment. I did not find any money, his wallet, his identification or keys in his apartment.

My brother knew the defendant Richard Brown. I had seen him, the defendant, going up there previously.

Cross Examination by Defense Counsel:

When I saw Richard Brown the evening of May 5 going to my brother's apartment I thought this was just another one of a number of visits that he made.

Q. Did you ever, prior to May 5th, 1968, take an inventory of your brother's personal effects?

A. Would you explain that, please?

Q. Well, I'll put it to you this way. Prior to May 5th, 1968, did you see whether or not your brother had credit cards with him?

A. Yes.

Q. Did you see him on May 5th, 1968?

A. No.

Q. Did you see him on May 4th, 1968?

A. Yes.

Q. Where was that?

A. When—I think that was the time he came down that I saw him, he was going around emptying the garbage.

333–342 Q. He pulled his credit cards out and showed them to you at that time?

A. No, but he usually kept identification, his credit cards was in with his wallet, he kept a check book and—in with his driver's license, and he carried all these things with him when he would go to work.

Q. That is not the question I asked you, young lady. I have no further questions, your honor.

The Court. Thank you, very much. Do you have any questions.

Mary Johnson, witness for the State—

343–350 * * * * *

Arthur Corpus, State Witness—

Direct Examination by Mr. Van Zeyl:

My name is Arthur Corpus and I live at 3126 West Monroe in the basement apartment. Roger Corpus was my brother. On May 5, 1968, I knew a person by the name of Richard Brown.

On Saturday, May 4, I saw Roger Corpus. He was in good health. He had an asthmatic condition.

His military status was 4–F. My brother kept with him his driver's license, his car registration and credit cards and a social security card. He was single.

We went into my brother's apartment about two days after he was killed. On that occasion we did not find any identification, money or keys in his apartment.

On May 7, 1968 I spoke to police officers at nine in the morning in my mother's apartment.

I spoke to my mother and sister before I talked to the police. I talked to a plain clothes detective, Denson, on the 7th.

The next day, the 8th, I spoke to Detective Lenz and another detective, whose name I don't remember.

I furnished Detective Denson with the name of Richard Brown on the 7th.

Cross Examination by Defense Counsel:

On May 6, 1968 I was at work. On May 6, 1968 I was informed of my brother's death while at work.

351–355 I arrived home at about 6:00 or quarter after. There were police officers at the house, but I did not tell any of these police officers about Richard Brown. I have known the defendant, Richard Brown since 1959. During this time Richard Brown was friendly with my brother.

The last time I was in my brother's apartment prior to the day he was killed was about 3 or 4 weeks before that.

I have never been up in my brother's apartment when he had visitors. My brother did not smoke or sell marijuana.

Q. After you arrived at your mother's apartment on May 6th, 1968, you had a conversation with your mother, didn't you?

A. Yes, I did.

Q. She told you what she knew of this unfortunate, this terrible thing?

A. That's right.

Q. And the two of you did discuss it, didn't you, your mother and you?

A. My mother and my sister.

Q. And during these conversations between you and your mother and your sister, with the police officers in and about the apartment there, none of you suggested to the police officers that possibly Richard Brown was responsible for this man's death?

A. Nobody asked.

Q. That isn't the question I asked you, sir.

The COURT. The question may stand and the answer may stand.

Mr. KITSOS. Yes, your honor.

356 Q. Did anyone at that time tell the police officers that Richard Brown was the man who did it?

Mr. VAN ZEYL. Objection. How would anybody know?

The COURT. Already answered. Nobody asked. A new question.

Mr. KITSOS. Q. Do you know a person by the name of Claggett?

A. Yes, I do.

Q. What is his first name?

A. What every body calls him, Jimmy D.

Q. Do you know where he lives?

A. No, I don't.

Q. When was the last time you saw Claggett?

A. I haven't seen Claggett in about 6 months, prior to this, what happened here.

Q. Where was this?

A. I seen him on 5th Avenue.

Q. Where?

A. On 5th Avenue.

Q. Chicago?

A. Yes.

Q. When was that, what year was that?

The COURT. The witness said approximately 6 months prior to this incident.

Mr. KITSOS. Thank you, your honor.

Q. Was that the same Claggett that is named in this indictment?

A. Yes, it is.

Q. And that night or that morning when you told the police officers at 9:00 o'clock in the morning that you gave him some names, you also named Jimmy Claggett, didn't you?

357–381 A. No, I didn't.

Q. You just gave the name of Richard Brown?

A. Yes.

Q. No other name?

A. That's all.

Q. And prior to that time you told these police officers the name of Richard Brown, when last had you seen Richard Brown?

A. That Friday, the Friday before that. Thursday or Friday before that.

Did you see Richard Brown on May 5th?

A. No, I didn't.

Q. Or on May 6th?

A. No, I didn't.

Q. What time did you leave the apartment, your mother's apartment, on May 6th, 1968?

A. About 10 or 11:00 o'clock that night.

Q. Where did you go?

A. Went down to my apartment.

Q. And you went to bed?

A. Yes, I did.

Q. What time did you get up the next morning?

A. About 5:30, 6:00 o'clock.

Q. And what time did you talk to the police officers?

A. About 9:00.

Q. That's the time you gave Richard Brown's name to the police officers, is that right?

A. Yes, that's right.

Mr. KITSOS. No further questions.

EDWARD SHALGOS, called as a witness by the State—

382–390 * * * * *

DETECTIVE WILLIAM LENZ, State Witness—

Direct Examination by Mr. VAN ZEYL:

I am a detective assigned into Area 4 Homicide. On May 6, 1968 at about 6:00 p.m., I have been assigned to Area 4 Homi-

cide for the past 9 years. I received an assignment. I went to 3126 West Monroe Street.

I arrived at 6:30 or 6:40 p.m. There were other police officers present, and I spoke to Mrs. Corpus, mother of Roger Corpus and a sister of Roger Corpus and a Mrs. Mary Johnson.

When I entered the apartment of Roger Corpus I saw him lying on the floor in the front room. He was lying face down on the floor.

(State's Exhibits 7, 8 and 9 marked for identification.)

Mr. Corpus was fully dressed when we found him. He was lying face down with his head facing north. His ankles were bound by a cord. His hands were underneath the body when we first saw him and there were some cord around his neck as well as a portion of a bathrobe.

391–399 I also observed a wine bottle in the front room standing along side a hassock which was present. A pillow had also been removed from a portion of the couch. This pillow was standing along side a portable TV stand. The pillow had three holes in it, and one of the holes appeared to have a powder burn or mark surrounding the hole.

(State's Exhibit No. 10 marked for identification, photograph of TV stand and pillow.)

The cord was removed from the victim. The property was given to the crime laboratory.

(State's Exhibit No. 11, marked for identification, pieces or strands of cord.)

The cord which bound the victim's hands and ankles was an electrical cord. There were numerous electrical cords in the apartment. There was extensive hi-fi system in the apartment. The pillow with the bullet holes in it was sent to the crime laboratory.

(State's Exhibit No. 12 marked for identification, a pillow.)

After May 6th I had further conversation with members of the Corpus family. As a result of these conversations we were supplied with the name of Richard Brown, a man known as Henry, and a third individual, this would be a friend of Henry's. I don't recall the name. We subsequently placed Richard Brown under arrest.

400 * * * * *

Mr. VAN ZEYL. Q. What date was it you placed the defendant under arrest?

A. The 13th day of May, 1968.

Q. Where was it that he was placed under arrest?

A. 3845 West End Avenue.

Q. Do you recall what time of the day or night that would have been?

A. He was placed under arrest at 7:45 P.M.

Q. At that time, Detective, were you alone or working with somebody else?

A. I was accompanied by two other police officers, Officer William Nolan and Officer Robert Wasmund.

Q. What time of the day or night on May 13th, 1968, did you arrive at that location?

A. We arrived at that location at approximately 5:00 P.M.

Q. What, if anything, did you do after you arrived at

401 that location?

A. We concealed ourselves, Officer Nolan was in the hallway, this would be a hallway just outside of the apartment of Richard Brown. I was right in the apartment of Richard Brown. This would be facing the rear entrance to the apartment.

Officer Wasmund was down on the street side, this would be on the West End side at the front portion of the building.

Q. And where was the defendant when you first saw him?

A. He had approached the apartment from the alley. He ascended the stairs to the second floor—this an outside staircase—and was walking on a—it would be an entranceway, an open entranceway alongside the building approaching his apartment.

Q. What did you do after he approached his apartment?

A. I called to Detective Nolan that he was coming. As he walked up to the apartment Detective Nolan stepped out of the corridor in which he was located and informed the defendant that he was under arrest.

Q. What happened next?

402 A. We searched his person. We then transported him down to our vehicle, which was parked on Washington Boulevard, and we proceeded to Area 4, Homicide.

Q. And when you arrived at Area 4 Homicide where, if anywhere, was the defendant taken?

A. He was placed in an interrogation room. This would be an interrogation room located on the west side of the building, it would be the center room.

Q. Did you enter that interrogation room?

A. Yes, sir.
Q. Did you remain for the interrogation?
A. A portion of it.
Q. And then you left?
A. At what time? Specifically what time, sir? When we first arrived we did enter the interrogation room with Mr. Brown.
Q. Was there any conversation going on in the automobile?
A. Yes, sir.
Q. And who was doing the talking?
403 A. Mr. Brown asked why he was arrested and we informed him he was under arrest of investigation of a homicide, and he wanted to know why we had arrested him. We told him because of some evidence that we had relative to the case.
Q. Officer, did you have occasion yourself to advise the defendant of any rights?
A. Detective Nolan advised him of his rights at the time of his arrest on the second floor.
Q. Driving to Area 4 Homicide, who drove the automobile?
A. As I recall, I drove the car, sir.
Q. Where was the defendant seated in the car?
A. In the rear seat.
Q. Who was back there with him?
A. Detective Nolan.
Q. Was there conversation between the defendant and Detective Nolan?
A. There was.
Q. Now, when you got to the interrogation room at Area 4, was the conversation there between the defendant and Detective Nolan also?
A. Yes, sir, it was.
404 Mr. Van Zeyl. I have no further questions.
The Court. Thank you, Mr. Van Zeyl. Mr. Kitsos.
* * * * *
404a * * * * *
Cross Examination by Defense Counsel:
The wine bottle which I noticed in the apartment was dusted for fingerprints by the crime laboratory.
405 * * * * *
Q. Officer, did you find a gun on the defendant at the time you arrested him?
A. No, sir.

Q. Did you have a conversation with the decedent's mother when you arrived at the apartment you told us about?
A. Yes, sir.
Q. And did you have a conversation with Arthur Corpus, the brother of the decedent?
Q. Arthur Corpus gave you three names, did he?
A. As I recall, he originally gave us two names. On the specific day of the 6th day of May he gave us two names. I had more than one conversation with Mr. Arthur Corpus.
Q. On May 7th, the next day, did you have occasion to see Arthur Corpus again?
A. I don't recall. I could have, sir.
Q. Do you recall what day Arthur Corpus gave you the name of the defendant Richard Brown?
Mr. Van Zeyl. Objection. There is no evidence he
406 gave him the name.
Mr. Kitsos. I think there is, Judge.
Mr. Van Zeyl. I will withdraw the objection.
The Court. Thank you, very much. Answer the question if you can.
The Witness. No, sir, I do not recall the specific date.
The Court. The answer is I do not know. The next question.
Mr. Kitsos. Q. Did you have occasion to arrest one by the name of James Claggett in connection with this homicide?
A. Yes, sir.
Q. When was the date of that arrest?
A. As I recall, Claggett—I don't recall if it was the 13th day of May or the 14th, as it was very close to midnight, sir.
Q. Now, on May 6th, you had a conversation with Mrs. Ernestine Corpus, the decedent's mother, didn't you?
A. Yes, sir.
Q. At that time Mrs. Corpus told you, didn't she, that at approximately midnight or just before mid-
407 night on May 5th she had observed two men, didn't she?
A. She had observed two men, one being taller than the other.
Q. Did she tell you whether or not she could identify those men at that time?
A. The only description she could give was their clothing.
Q. She could give no description as to facial features, could she?

A. She did not see their faces.

Q. Did you recover a revolver in the apartment of the decedent?

A. Yes, sir.

Q. Do you know, Officer, if the defendant's finger-prints appeared on the bottle of wine that you recovered?

A. I do not have an independent knowledge of this, sir.

Q. Based upon your investigation, Officer, can you tell us with any degree of reasonable certainty whether the decedent died where you found him?

Mr. Van Zeyl. Objection.

408 The Court. Sustained.

Mr. Kitsos. Q. Now this stake-out of Richard Brown's apartment, you had gone there to arrest a man, is that right?

A. That's right, sir.

Q. And Richard Brown came up to his apartment and you in fact arrested him, Officer?

A. That's correct, sir.

Q. You advised him he was under arrest, didn't you?

A. Detective Nolan advised him he was under arrest.

Q. And the defendant Richard Brown submitted to authority, didn't he?

A. He did.

Q. And this took place on the second floor there?

A. That's correct, sir.

Q. And in your presence Officer Nolan and the defendant and yourself returned to the squad car?

A. That is correct, sir.

Q. During this time of proceeding down the stairs the defendant Richard Brown was asking you, "Why are you arresting me?" Didn't he ask you that?

409 A. He denied he was Richard Brown.

Q. It's a very simple question, Officer.

The individual was asking you why he was arrested, isn't that true?

A. No, sir, not at that time.

Q. Did he in the squad car inquire as to why you were arresting him?

A. In the squad care he inquired, yes, sir.

Q. And did you tell him why you were arresting him?

A. Officer Nolan informed him.

Q. Informed him what?

A. He was under arrest for investigation of a murder.

Q. In other words, you indicated to the defendant that you were going to charge him with murder is that right?

Mr. Van Zeyl. Objection.

The Court. Objection sustained.

Mr. Kitsos. I'll withdraw the question, your honor.

The Court. Very good.

Mr. Kitsos. Q. You advised the defendant at that time, or Officer Nolan did, one or the other, that you had a sus-

410 picion that he was involved in a murder?

Mr. Van Zeyl. Objection.

The Court. The word, "suspicion" was not used. Investigation of a murder, is what the detective said.

Mr. Kitsos. Yes, your honor, I'll abide by the court's ruling.

Q. In any event, you told the defendant that he was under arrest for investigation of murder?

A. Correct, sir.

Q. Did you indicate the name of the decedent at that time?

A. As I recall, Detective Nolan and the defendant were having a conversation in the back seat. I recall Detective Nolan telling him who the deceased was.

Q. And there was a conversation between Officer Nolan and the defendant in the back seat?

A. There was a conversation.

Q. To which you could hear?

A. Absolutely, yes, sir.

Q. And this conversation was about the accusation or the investigation of the murder, is that correct?

411 A. No, sir. The conversation, as I recall, was he wanted to know why he was arrested. Detective Nolan informed him. He wanted to know who he was accused of killing. Detective Nolan informed him of the deceased's name, Roger Corpus. The only other conversation I recall on the way in the car was relative to his ownership——

Q. Let me ask you this, Officer, ——

Mr. Van Zeyl. Judge, let him——

Mr. Kitsos. I have a right to interrupt, your honor.

The Court. Objection overruled. Ask another question.

Mr. Kitsos. Q. Let me ask you this, Officer. While you were sitting there in the squad car did you at any time hear Officer Nolan tell the defendant that he had a right to a lawyer?

A. That had been explained to the defendant——

Q. It's a very simple question, Officer. Will you answer it, please?

Mr. VAN ZEYL. I ask the witness be permitted to answer questions.

412 Mr. KITSOS. That's right, I am entitled to a direct answer to the question.

The COURT. When you gentlemen are through I would like to rule. The question was a simple question. Was Mr. Brown advised that he was entitled to have a lawyer at any time?

The WITNESS. Yes, your honor.

The COURT. The answer is yes, Mr. Kitsos.

Mr. KITSOS. Q. In the squad car, Officer?

A. Not in the squad car.

Q. Not in the squad car?

A. That is correct, sir.

Q. In the squad car did you hear Officer Nolan tell this young man that he had a right under the law to remain silent?

A. In the squad car?

Q. Yes.

A. No, sir.

Q. In the squad car did you hear Officer Nolan tell this young man that anything he said to Officer Nolan or yourself could be used as evidence against him?

A. In the squad car?

413 Q. In the squad car.

A. No, sir.

Q. Now, Officer Lenz,——

The COURT. Detective Lenz.

Mr. KITSOS. Q. Detective Lenz, Officer Lenz, how long were you, Officer Nolan and the defendant in the squad car?

A. I would say approximately 10 minutes, 15 at the most.

Q. Where did you go to?

A. We drove from the 3800 block west on Washington Boulevard to Area 4 Homicide.

Q. Did you make any stops in between?

A. No, sir.

Q. In the squad car Officer Nolan was questioning the defendant, isn't that true?

A. That is not true, sir.

Q. There was a conversation between the two individuals?

A. That is correct, sir.

Q. Your purpose in taking the man into custody was for an investigation, isn't that right?

A. Part of the investigation.

414 Q. And your investigation commences when you take the man into custody, doesn't it, officer?

A. Not necessarily so, sir.

Q. In this case it was such. Your investigation commenced just as soon as you took him into custody, isn't that true?

A. No, sir, it did not.

Q. What time did you leave—what area was that officer, you told us about that you went to with the defendant?

A. Area 4 homicide, sir.

Q. What time did you personally leave Area 4 Homicide that day?

A. Upon completion of my tour of duty. It would be approximately 4 or 5 A.M. upon the morning of the 14th.

Q. What time did you arrive at Area 4?

A. About 4:30 P.M. of the 13th day of May—of April.

Q. During all this time do you know where the defendant Richard Brown was?

415 A. I do and at 7:45 P.M. until approximately 2:00 A.M. on the 14th.

Q. Where was he?

A. He was in our custody.

Q. And where was this?

A. Area 4, Homicide.

Q. In an interrogation room?

A. Not for its entirety, sir.

Q. He was over there to be interrogated?

A. I wouldn't say to be interrogated. We were in the course of our investigation, part of the investigation we left with Mr. Brown, we returned to the area, we again left the area with Mr. Brown and returned at approximately 12:30 or shortly after midnight on the 14th.

Q. You had arrested this man?

A. Arrested whom, sir.

Q. Richard Brown, without a warrant, isn't that true?

A. That is correct, sir.

Q. You are familiar with the requirement that anyone arrested without a warrant be brought before a magistrate——

416 Mr. VAN ZEYL. Objection.

The COURT. Objection sustained.

Mr. KITSOS. Q. Did you go to 11th and State, the Central Police Station with this defendant that night?

A. Yes, sir.

Q. What floor did you go to?

A. As I recall, it would be to the fourth floor, I believe.

Q. That is the lockup?

A. No, sir.

Q. What is that, what floor is that?

A. The fourth floor in the section of the building in which we were located, which is the new section of the building, contains the arrest reports and photographs of offenders.

Q. What time were you there at 11th and State?

A. I would say at approximately—I could not approximate the time. It would be somewhere between the time of the arrest at 7:45 and 12:00 midnight.

Q. And on that day at that hour when you were at 11th and State at Central Police Station, you were aware, weren't you, that there was a magistrate sitting in room 1100 on that day or night?

417 Mr. VAN ZEYL. Objection.

The COURT. Sustained. Strike it.

Mr. KITSOS. Q. Did you go to the 11th floor of the Central Police Station at 11th and State that evening with your prisoner?

A. No, sir.

Q. Now I ask you a very simple question, Officer. Why not.

Mr. VAN ZEYL. Objection.

The COURT. Sustained.

Mr. KITSOS. That is a simple question, your honor.

The COURT. Ask another question.

Mr. KITSOS. Q. Was Richard Brown permitted to use the telephone while he was in your custody?

A. I don't recall if he did or not, sir. If he had requested it a telephone would have been made available to him.

Q. Officer, it's a very simple question. Was Richard Brown permitted to use a phone while he was in your custody?

A. I don't recall.

Q. Were you present when Richard Brown was induced—strike that question, please. Were you present when

418–419 Mr. Richard Brown signed some document or writing at the request of one of the police officers?

A. I don't recall Mr. Brown signing anything in my presence, sir.

Q. This man Claggett, is he in custody now, do you know?

Mr. VAN ZEYL. Objection.

The COURT. Objection sustained.

Mr. KITSOS. Q. This man Claggett that you arrested, Jimmy Claggett, is he the same Jimmy Claggett that is named in this indictment?

A. Yes, sir.

Q. Did you testify before the grand jury, Officer?

A. As I recall, I did.

Q. Officer, during your direct examination you made reference to a report.

I make a motion, your honor, to see the report.

420 * * * * *

The COURT. Proceed, gentlemen, with your cross examination.

Mr. KITSOS. Q. While you were in the squad car, Officer Lenz, did you hear Officer Nolan ask the defendant Richard Brown about the murder of Mr. Corpus?

A. No, sir.

Q. But a murder was discussed?

A. Not in the squad car.

Q. Now, this gun that you found in the Corpus apartment, did you inventory that gun?

A. Yes, sir.

Q. Do you recall what caliber that gun was?

A. .22 caliber.

Q. Where is that .22 caliber gun now?

A. To the best of my knowledge it is at the recovered property section at 1121 South State Street.

Q. During your investigation did you recover any

421 other weapons other than the weapon you told us about?

A. I believe the .22 is a starter gun, or it was a starter gun, but no other weapon.

Q. Where was the starter gun found?

A. The .22, the one gun was found under the mattress in the Roger Corpus bedroom. I believe there was a starter gun also found in the bedroom.

Q. What is a starter gun, will you tell the ladies and gentlemen of the jury?

A. It is a blank gun, it fires blank cartridges, used at races, and so forth, to start the event.

Q. Did you search Richard Brown's apartment the night you arrested him?

A. We made a cursory search of the apartment, yes.

Q. Did you find a gun in there?

A. In Richard Brown's apartment?

Q. Yes?

A. No, sir.

Q. Did you find any gun on Claggett when you arrested him?

422 A. No, sir.

Q. Did you make any other arrests of any other individual pursuant to your investigation?

A. No, sir, I did not.

Q. Did you find any marijuana in the course of your investigation?

A. No, sir, I did not.

Mr. KITSOS. No further questions.

423–426 * * * * *

Redirect Examination by the State:

We were not looking specifically for marijuana.

There were fingerprints found on a bottle of wine and these prints were dusted by the evidence technician, from the Chicago Crime Laboratory. I have no further knowledge of these items.

During our conversation with the mother of the decedent on May 6, she told us she was looking out of her front window, which faces out onto the porch area of her home. As I recall she was looking through two windows, an outer window and an inner window, and it was quite dark that night. Mrs. Corpus also wears glasses. She informed us she could see two individuals, one of whom she described as being quite tall. She described the clothing the men were wearing, that they knocked at the front door, she heard her son come down, admit them to the apartment and she could hear the people go upstairs and walking around in the apartment and was of the opinion that the persons who had entered were friends of her son, that they were at this time in the apartment with him.

After the defendant was placed under arrest he denied he was Richard Brown. I do not recall the name he gave us but it was a name of a friend of his he later informed us.

On May 6, in the Corpus apartment we conducted a search. We did not find any money or identification on the person of Roger Corpus. There was some change, I do not recall the exact amount, but it would be pennies that was

427–434 found in a bedroom. To the best of my knowledge this is the only money located in the apartment. I do not recall finding any identification on the person of the deceased.

A .22 caliber pistol was found underneath the bed or the mattress of Roger Corpus. Caliber of the bullet which was taken from the body of Roger Corpus was a .38 caliber.

Recross Examination by Defense Counsel:

I learned what caliber bullet was found in the body of Roger Corpus from the ballistics expert.

WILLIAM NOLAN, State's witness—

Direct Examination by Mr. VAN ZEYL:

My name is William Nolan. I am a police officer for the city of Chicago. I have been a detective for five and a half years. I am presently assigned to Area 4 Homicide unit, at 943 West Maxwell Street.

The first time that I did anything with respect to an investigation into the homicide of Roger Corpus was on May 13, when I reported for work. Pursuant to the assignment Officer Lenz and I went to 3845 or 47 West Maple. There is an apartment building at that address. We were told to meet two officers in front of the building. We went to the third floor, to the apartment of Richard Brown. The apartment was pointed out to us, and I remained in the hallway near the rear door. Detective Lenz was near the front of the apartment. Another detective with us remained downstairs. We arrived at the apartment somewhere between 4:30 and 5:00 p.m. We waited about 3 hours. At approximately some time between 7:30

435–438 and 8:00, * * * Detective Lenz called to me that somebody is coming up through the back. A few minutes later Detective Lenz stated it looks like this is Richard Brown so the man walked passed the doorway where I was at up to a window, and I stepped out on the porch behind him and placed him under arrest.

I asked him for his name and his identification. I asked him "Are you Richard Brown?" He said no he wasn't. I said "What is your name", he gave a name that I don't recall, but he stated that this was his name. I said you are not Richard Brown? He said No, I'm not.

Q. [Mr. Van Zeyl] Did you have anything in your possession, any photographs in your possession at that time?

A. Yes, sir, we did.

Q. How many photographs did you have?

A. We had two, I believe.

Q. And who were they photographs of, if you recall?

A. The photographs were of Richard Brown.

* * * * *

439–440 * * * * *

Mr. VAN ZEYL. Q. After the initial conversation which you had with the defendant after you placed him under

441–442 arrest about the name, did you have any further conversation with him at that time on the porch?

A. At that time on the porch?

Q. Yes?

A. Yes, sir, I told him, I says, "Well, you come into the station with us and we'll determine who you are. At this time I advise you you are under arrest for investigation of the homicide." At that time I also advised him of his constitutional rights to remain—

Mr. KITSOS. Objection as a conclusion.

The COURT. Sustained.

Mr. VAN ZEYL. Q. What did you tell him?

A. I told him at this time he had a right to remain silent, that he did not have to make any statement to me or anyone else, that also that if he did make any statement, anything he did say could be used against him at a later time in court.

I also told him he had a right to retain an attorney and the attorney can be present during any questioning or before any statement was given, and also I told him if he couldn't afford an attorney the State would provide one for him. I asked him if he understood all of this and he stated he did.

We then went to the car, Detective Lenz was driving the car and I went into the back seat with Mr. Brown.

As we were going into the station Mr. Brown asked me, "Why are you arresting me, why are you bringing me in?" I told him, "Your name is Richard Brown." He says, "No, my name is not Brown."

After that I told the man who is sitting with me

443–447 that we were bringing him in for the investigation of a homicide: He said, "What's homicide?" I said, That's murder." He said, "Who am I supposed to have murdered?" and I said, "a man by the name of Roger Corpus". He said, "I don't know anything about that."

By this time we arrived at the Area 4 parking lot, and as we were getting out of the car, I told the defendant we were going up to our office on the second floor. I said at this time we'll try to take fingerprints and the fingerprints will determine if you are Richard Brown. At this time he said, "Well, my name is Richard Brown. We then went into the interrogation room at the station. This was sometime between 8:00 and 8:30, probably close to 8:00 p.m.

Present were Richard Brown, Detective Lenz and myself. Defense counsel renews objection to admission of statements, and to the lack of a foundation that they were given voluntarily. Objection overruled.

Mr. VAN ZEYL. Q. Detective, what, if anything, did you say to him at that time and what, if anything, did he say to you?

A. I asked him, I said, "You are Richard Brown and you live over there in the apartment on Maypole Avenue." He said, "Yes, I did live over there." Then I told him, I says, "You are under arrest, as I told you before, for investigation of a homicide."

I said, "Now, Mr. Richard Brown, I want to repeat what I told you before." At this time I told him again, "You have a right to remain silent, you don't have to make any statement to us at all; anything you do say will be held against you probably at a later time and date." Also I told him he had a right to have an attorney and the attorney could be present before any questioning or any statement given. And

448–449 I also told him if he couldn't afford an attorney one would be provided for him and could be present before any statement.

He was asked if he understood all the four points and he stated he did. He said, "I want to tell you the truth. I had nothing to do with any murder."

So I asked him what he knew about the killing of Roger Corpus. Mr. Brown stated that on the night in question, sometime around midnight, he went over to Roger Corpus' apartment over on Monroe Street. He says as he arrived at the apartment in the lower vestibule he saw another figure as he

was coming up the stairs. He says as he got into the hallway and entrance he recognized the man that he identified as Jimmy Claggett. He said they were talking together and Richard Brown stated that at the time he, Richard Brown, had a gun in his possession and he asked Claggett if he wanted the gun. He said, "I have to get rid of the gun because of something I did."

Mr. KITSOS. Objection, your honor. Objection.

The COURT. Overruled.

Mr. KITSOS. Thank you.

The COURT. Proceed.

The WITNESS: He said, "I have to get rid of the gun because of an incident over on 5th Avenue." So he stated that he removed the shells from the gun, he handed the gun to Mr. Claggett and Claggett was examining the gun and he said Mr. Claggett told him, "I have $30. I'll give you that for the gun."

Brown said he handed the gun and Claggett says, "I want everything." He said with this he handed Claggett the shells to the gun.

450–451 He says then the two of them went upstairs and they knocked on the door of Mr. Corpus' apartment. He said that Corpus opened the door and there was a night chain, he opened the door to the length of the chain. He told him who they were and Mr. Corpus recognized them and he closed the door, took the chain off and opened the door for them.

Mr. Brown said they went into the apartment and Mr. Corpus got them some drinks and he says they were smoking a few sticks, meaning they were smoking a few marijuana, and they were sitting around just talking. He said he was sitting on a hassock facing Mr. Corpus and that Mr. Corpus was sitting a little to his rear, to his right rear.

He said while he was facing Corpus he heard what he thought was a click and he turned and he saw Claggett with the gun he had just sold him in his hand. And he asked Claggett, "What are you doing with the gun?"

He said Claggett was clicking the gun and he was putting the shells into the gun and he says, "Tie him up." He said, "Tie who up? What do you mean?" He said, "Don't argue with me, tie him up."

So Brown says he went and got some cord from either photograph or hi fi set or stereo set and he started tying up Mr. Corpus. He said he wrapped the cord around his wrists and his

feet. He said, "What are you going to do?" And Claggett told him, "Never mind, just tie him up, do what I tell you."

And he said he went and got some type of bathrobe and wrapped this around the head and face area of Mr. Cor-

452 pus. He said at this time Mr. Corpus started to struggle a little bit and Claggett told Corpus to hold still or he'll kill him. At this time Brown said that Mr. Claggett picked up a pillow and put the pillow over the gun and he fired a shot and he said he heard Mr. Corpus saying, "Oh, it burns, it burns," something like that.

The he said Claggett had the gun in his hand again and Brown attempted to take the gun out of Claggett's hand and he heard a second shot. He said, "Mr. Brown said at this time he ran to the door and ran out of the apartment and down the stairs. He stated as he was running down the stairs he heard a third shot.

He got out of the hallway downstairs on Monroe and he ran over to Albany and he was standing around the corner at Albany and Monroe for several minutes. A short time later he saw Claggett come up to him and Claggett asked him if he had gotten any money and Brown said no, he didn't get any money. So he says, "why did you shoot him?" and Claggett said, "Don't worry about it, nobody knows we are up there, the police will never find us."

So then he stated he walked from Albany and Monroe with Mr. Claggett, they went to the area of Fifth Avenue and Homan, and at this point there was a hotel over there and in the basement of the hotel is a restaurant, the Hoover Restaurant. They went in the restaurant and had something to eat and he stated he told Claggett he was worried about the gun, and he says, "Don't worry, we left no evidence up there, the police will never trace the shooting to us." He said, "If you are that worried about the gun I'll get rid of it."

453–454 And he said Claggett wanted to give Brown back the gun. Brown told him, "No, you bought the gun, it's yours, it's your trouble, you get rid of it." He says then after an hour or so they broke up and they went their separate ways.

Then he said he saw Claggett several times in between the time of the shooting and the time that we had him in the station and that each time he told Claggett he was worried that the police would catch him and Claggett kept telling him, "Don't

worry, the police will never find us because we left no evidence or clues or anything like that."

After this we asked Mr. Brown if he would give a formal statement to what he just told us to the State's Attorney's officer, where a State's Attorney would come out and take everything down in writing, and he said he would. He also said, "I can help you find Mr. Claggett and I want to help you do that." We said, we would take that into consideration, to help us find Claggett.

Detective Lenz and I then took Mr. Brown from our area and we went to 1121 S. State Street. At this time we tried to obtain a photograph of Jimmy Claggett. Before we went to 11th and State, after we left our area, Brown said he knew the area where Claggett hung out around Madison and St. Louis. We took a ride in that area, we drove around Madison and St. Louis and Homan and Monroe Street, we couldn't find Claggett and from there we went down to 11th and State. After we were unsuccessful in obtaining a picture we were on our way back to the station. We had already called the State's Attorney's office, and as we were going back to Area 4, Mr.
455–463 Brown said, "let's try again to see if we could find Claggett." Detective Lenz and I decided we would try another time. We went back down Madison Street to Homan, we went around the area, down towards St. Louis Street.

As I was driving the car at this time and as we approached the intersection of St. Louis and Monroe, several people were walking across St. Louis from the west side to the east side. At that time Brown was in the back seat, and he hollered out, "there's Claggett, grab him."

We stopped the car and placed James Claggett under arrest just a little before midnight and transported both Mr. Claggett and Mr. Brown back into Area 4 homicide. When we arrived at Area 4 homicide, Assistant State's Attorney John Crilly was there.

He talked to Brown and talked to myself and Detective Lenz. A statement was started somewhere around 2:00 in the morning in the presence of a court reporter. I was present during the taking of the statement.

State's Exhibit 14, marked for identification, the statement taken by Assistant State's Attorney John Crilly from Richard Brown.

Cross Examination by Defense Counsel:

The interrogation room where defendant was kept in custody did not contain a telephone.

The day the defendant was placed under arrest I was armed, and when the defendant was placed under arrest, my gun was drawn. The defendant was placed up against the wall and searched.

Mr. KITSOS. Q. After you searched the defendant did you discover a weapon on him, on his person?

A. [Officer Nolan] No, sir.

464–467 Q. You advised him he was under arrest, is that correct?

A. Yes, sir.

Q. Did you put handcuffs on him?

A. Yes, sir.

Q. Will you tell the ladies and gentlemen of the jury how you put these handcuffs on the defendant. Did you cuff him in front or in the back?

A. Behind his back.

Q. Behind him?

A. Yes.

Q. As he was cuffed, after he had been searched, then he proceeded down the stairs, did you not?

A. At this time, after he was cuffed, then he was notified of his rights.

Q. Incidentally, when you notified the defendant of his rights up there while he was cuffed in the back after you had searched him, was Officer Lenz there? Was he?

A. Detective Lenz?

Q. Lenz. Was Detective Lenz there?

A. He was not out on the back porch at this time. He was in a position where he could see him and he was covering him while I was out on the porch.

Q. He was covering him with a pistol, wasn't he?

A. I believe so.

Q. And he was standing right there, wasn't he, Officer Lenz?

A. He was in the approximate area.

I do not recall whether I told the defendant that he had a right to use the telephone. I do not recall whether he
468–469 made a telephone call at 4:00 in the morning after the statements were taken.

Mr. KITSOS. Q. When you made this arrest of the defendant Richard Brown, you picked up this man, you arrested him for questioning, didn't you, Officer?

A. Yes, sir.

470–487 * * * * *

The COURT. Proceed with your questions.

When we made the arrest of the defendant, our purpose of picking him up was for questioning him. Throughout all our conversations with Richard Brown; Richard Brown persistingly denied having killed Roger Corpus. At no time during our interrogation of Righard Brown did Richard Brown admit killing Roger Corpus.

The defendant was arrested on the 13th. He was formerly booked downtown on the 14th, the next day in the early morning hours. The arrest slip has the date of the 14th of May. A formal charge was filed before a magistrate the following morning of May 14. We arrested Brown at approximately 8:00 P.M., maybe a little bit earlier.

Redirect Examination by the State:

While the defendant never admitted shooting the deceased, he did admit tying him up.

Statement taken by Assistant State's Attorney Crilly was not signed by the defendant.

Recross Examination by Defense Counsel:

(Typewritten statement taken from Richard Brown by Detectives Nolan and Lenz.)

State's Exhibit 15 marked for identification.

Recross Examination by Defense Counsel:

JOHN CRILLY testified for the State—

Direct Examination:

My name is John Crilly. I am employed by the State's Attorney of Cook County. I have been so employed for
488–500 seven years. On May 13, or the early hours of May 14, 1968, I received a call at home by State's Attorney's Police. This was shortly after midnight. I went to Area 4, Homicide Headquarters.

When I arrived I talked to Detectives Nolan and Lenz. At that time I met and talked to Richard Brown.

I had a conversation with Mr. Brown alone and then another subsequent conversation with him with the court reporter and one of the detectives was also present. The court reporter commenced to take a statement at approximately 2:30 in the

morning. The statement was finished sometime after 4:00 A.M.

At the time we were at Area 4, after the statement, the notes had not been transcribed from Mr. Smith's shorthand notes into a typed form. Mr. Brown was willing to sign it but the hour was so late, that we decided it would be more expedient if Mr. Smith would return to the court and type up the statement. I believe Detectives Nolan and Lenz said they would have Mr. Brown over here and he agreed he would sign at that time.

Defense counsel renews objection to statements.

Cross Examination by Defense Counsel:

As I recall, I arrived at Area 4, Homicide about 1:00 in the morning, and I remained until after 4:00 in the morning.

I was probably shown the first statement taken from the defendant by the officers when I arrived, but I really don't recall.

I was at the Area 4, Homicide station for an hour or an hour and a half before exhibit 14, the second was taken from the
501–510 defendant by me. When I first arrived at Area 4, Homicide I informed Mr. Brown of his constitutional rights, and explained to him who I was, and asked him if he wanted to talk with me about this crime. He said yes. We then had a conversation about the crime.

In the presence of the court reporter, after I had interrogated the defendant for an hour and a half by myself, I then went on record as to advising him he had a right to a lawyer and to remain silent.

Redirect Examination by the State:

Defense counsel renews objection to statements, overruled. Statement read to the Jury.

"Re: People vs. Richard Brown, et al.

Statement of RICHARD BROWN taken in Detective Division, Area 4, 943 West Maxwell Street, Chicago, Cook County, Illinois, on Tuesday, May 14, 1968, at 2:30 o'clock, a.m.

Present: Mr. John Crilly, Assistant State's Attorney. Detective William Nolan. DDA–4 Homicide. Reported by E. Smith, Book No. 6807–8.

Mr. CRILLY. Mr. Brown, you know where we are, we are on the second floor in the interrogation room of Area 4 Homicide Headquarters. You know me, John W. Crilly. I am an Assistant State's Attorney, and this is Detective William Nolan, you know him, don't you?

511–512 A. Sir?

Q. You met Detective Nolan?

A. Yes, I have.

Q. And this is Emmett Smith. Mr. Smith is a court reporter from the State's Attorney's office and he is taking down what we are saying here.

A. Yes.

Q. You previously have been apprised of your constitutional rights?

A. That is correct.

Q. Now, you know that you have a right to remain silent?

A. Yes.

Q. You now know that if you choose not to remain silent, anything you say or write can and will be used as evidence against you in court, do you understand that?

A. Yes.

Q. And you have a legal right to consult a lawyer before any questioning and you have a right to have the lawyer present with you during any questioning, do you understand that?

A. I understand that.

Q. You not only have a right to consult with a lawyer before any questioning but if you lack the financial ability to retain a lawyer, a lawyer will be appointed to represent you before any questioning and you may have the appointed lawyer present with you during any questioning, do you understand that, Mr. Brown?

A. Yes, I do.

Q. Will you tell us your name, sir?

A. Richard Brown.

Q. What is your address?

513 A. 3847 West End Avenue.

Q. Is that an apartment or home?

A. Apartment.

Q. In what apartment do you live?

A. 302.

Q. Do you have a telephone there?

A. 638–8866.

Q. How old are you?

A. 21.

Q. And what is your education?

A. I have eight years completion of grammar school and three years completion of high school.

Q. Do you read and write the English language?

A. Yes, I do.

Q. Are you married or single?

A. Single.

Q. Where are you employed?

A. I am employed at E. I. Guffman at the present time.

Q. Where is E. I. Guffman?

A. They are located at 1251 North Street in Niles, Illinois.

Q. What do you do at that plant?

A. Punch press operator.

Q. How long have you been working for that company?

A. I started about a week ago.

Q. Where did you work before that?

A. Schwinn Bicycle, at 171 North Kildare. I was there from 1964, the 8th month, the 18th day up to Wednesday before last week, a Wednesday.

Q. With whom do you live at 3847 West End Avenue?

514 A. Just by myself.

Q. Mr. Brown, directing your attention to Sunday, May 5, 1968, prior to midnight, will you tell us where you were at that time?

A. I was at Roger Corpus' house.

Q. Where were you coming from?

A. Coming from the Golden Star Cocktail Lounge on Pulaski and Washington.

Q. How long had you been there?

A. Maybe an hour and a half.

Q. And where were you going?

A. I left home before I went there.

Q. What time did you leave home?

A. Around nine.

Q. And how did you go to Roger Corpus' home?

A. Well, Roger was a friend of mine. I had been to his home many times before May 5.

Q. Was that at 3126 West Monroe Street?

A. Yes.

Q. What time did you arrive at Roger Corpus' home?

A. Little after twelve, when I arrived there.

Q. And had you been—you said you were in a cocktail lounge before that?

A. Yes.

Q. Had you been in the poolhall on Fifth Avenue?

A. Yes, I have. That was earlier that week that I was there at the pool hall, not the same date.

Q. Not on May 5?

A. Not on May 5, I was in the poolroom I believe it was Thursday.

515–516 Q. When you arrived at Roger Corpus' house, is that an apartment?

A. Yes, it is.

Q. On what floor did he live?

A. Second floor.

Q. When you arrived at the entrance, what happened, if anything?

A. When I arrived at the entrance I noticed that there was a man standing in the hallway. He had a short tan jacket on and as I moved up the stairs I begin to recognize the features of the man. When I opened the door and walked in, hi, Jimmy, I said. He turned around and looked at me and said, what is going on?

Q. You recognized him?

A. Yes, I recognized him. Then the door buzzed.

Q. Who did you recognize him as?

A. Sir?

Q. Who was the man that you recognized?

A. James Claggett.

Q. Had you known him a long time?

A. Yes, I have.

Q. You started to say, you said hello and the door buzzed?

A. Yes, he turned and we both went in and stood there a minute and transacted the business of the gun.

Q. What do you mean by transacted the business of the gun?

A. He paid me $30 for a .38 revolver which I had been trying to sell.

Q. Had you told Jimmy you were trying to sell it before that time, was he aware you were trying to sell it?

517 A. Jimmy had not seen me before that time.

Q. Did you talk to him about trying to sell the gun when you met him in front of Roger Corpus' door?

A. At that time I asked, did he know anybody who would buy one and he said, what kind is it, and I went to describe it and I showed it to him. I took the bullets out of it before I gave it to him.

Q. What kind of a gun was it?

A. .38 revolver.

Q. Do you remember anything about the gun?

A. It has an owl on the handle, is all I remember.

Q. You don't recall the name of the gun?

A. I didn't see any name on it.

Q. What happened then?

A. Then after he took a look at the gun, spinned the chamber, and he asked for the shells, I said, what are you going to do? He said, you want to sell it? I said, yes, and he said, I have not got but $30. I said take the gun.

Q. You took $30?

A. I took $30 from him.

Q. Did you give him the shells?

A. Everything, yes, I gave him everything.

Q. What happened then?

A. We went upstairs and Roger was in the doorway. He said, just a minute, because he had a night chain on the door and he went and put on his pants and I believe it was a little jersey shirt or something and he came back and opened the door. He nodded to Jimmy. He spoke to me. I asked hiw, where is the drinks at?

Q. Had you known Roger a long time?

518 A. Yes, I have known him about thirteen, fourteen years.

Q. Had you often gone to his apartment?

A. Yes, I have.

Q. What would you ordinarily do?

A. We go up there and either he would have drinks and things for us to indulge in or marijuana or you know, this is where we go to sort of have a little get together, most of the fellows, when we had nothing else.

Q. What happened when Roger took the night chain off?

A. He opened and swung the door open with his left hand and he said, come on in. Jimmy went in first, he nodded to Jimmy. Jimmy sat in the front and I came in behind him. I talked to him. He closed the door and he locked it. Roger locked the door as we went to the front. We sit down and I said, give me a drink. He went and got a fifth of white port wine and he gave it to me. I offered Jimmy and he refused it. I started to drink and I asked him, where is the reefers at. He went and got them, came back. When he came back he gave him two.

Q. Two marijuana cigarettes?

A. One for Jimmy and one for myself. He took a brown bag and left the room.

Q. Roger did?

A. Yes, he left the room. I assume it was money in the bag.

Q. Had you ever seen Jimmy in Roger Corpus' apartment before?

A. Not to my knowledge, no, because Roger never spoke with people that would come to his place. He talked to
519–520 me mostly about business, things I would be doing. Other people he spoke about anybody else.

Q. Did Roger have a drink, too?

A. No, I offered him one. I was the only one drinking.

Q. What happened after Roger left the room with the brown bag?

A. After he left the room with the bag, Jimmy and I were sharing a cigarette. He came back, sat down on the couch. The marijuana had been smoked up. I had the wine bottle in my hand to take another drink when I heard the gun cock. I turned and looked to my right and I seen Jimmy.

Q. Did Jimmy have the gun?

A. He had the gun in his hands. Jimmy said, get the cord and tie him, you get a rope and tie him up. I said, man, what is wrong with you, are you losing your mind? He said, get the damn rope, man. I took a cord from the headphone and tied up his feet.

Q. You took the cord from a headphone?

A. The headphone, it fits over your ears.

Q. Is that for a stereo set?

A. Yes, it was. I taken it and tied his legs and stretched the cord around his hands and when I was tying his hands, I turned once more and I asked him, what is on your mind?

Q. You were talking to Jimmy?

A. Yes, I was talking to him and he just said, tie the mother fucker up before I kill him.

Q. Did Roger say anything?

A. Roger didn't open his mouth. He didn't say anything.

Q. Did you notice any change of expression on Roger Corpus' face?

521 A. The only expression I noticed was the expression when he was looking at the gun. The expression didn't change. He still had a frown on his face as I got another rag to

tie his mouth when Jimmy shot him one time. Then Roger bent over on me and said, it burns.

Q. Did Jimmy have anything else in his hands besides the gun?

A. He was shooting through the pillow. He shot one time through the pillow and I reached for his hands, like this, to pull his hand down to keep from shooting again and——

Q. You reached for Jimmy's hand to pull the gun away?

A. Yes, and then he moved my hand and shot again, the second time. Then I turned and I left then and on my way downstairs I heard another shot on the way out. I was by myself until I got to the corner. I heard Jimmy behind me. I turned and that was him behind me. He gave me the gun back. I broke it down and looked at it and there were three punctured shells. I taken the shells and threw them on the sidewalk, closed it back up and gave it to him, walked down Madison, from Madison and Albany up to Madison and St. Louis, got back up there and we were talking about what happened. Then he told me not to worry about it because they don't have any kind of evidence that we were there. I said, I am hungry, let's go to the Hoover, to have breakfast, we had two cheeseburgers apiece and some ham and egg and rice.

Q. Where is the Hoover Restaurant?

A. Located on Homan and Jackson.

Q. Did you have the gun at that time?

522–523 A. No, I didn't, Jimmy had the gun at that time.

Q. You said he gave the gun to you?

A. Yes, and we got on Madison and I gave him back the gun before we got to Madison, before we reached the corner.

Q. Did you have a conversation about the gun?

A. We had a conversation about the whole entire thing.

Q. What did he say to you and what did you say to him?

A. Well, he said to me that I should not worry about it, because didn't nobody know we done it, no people around, nobody heard a sound. I told him, the fingerprints were still there and I am as deep in it as you are. He said, man, he said don't worry about it. If anything happens, you ain't got nothing to worry about, just take the time like it is.

Q. When you gave the gun back, did he ask for it?

A. Well, when I taken the three shells out on Monroe and Albany, standing there under the tree, I closed the gun and he stuck it in his pants pocket and walked to the corner and

when we got there he gave me the gun and I said a few words, man, you bought it, man, it is yours, carry the trouble with you. We walked down Madison and all the way he constantly talked. I was listening. Things he was saying I could not begin to remember because he said so many things but these things I can remember, is that when we got to the Hoover Restaurant there, the first thing he said, was, don't turn State's evidence.

Q. He had the gun at that time?

A. He had the gun at that time, yes. When I last seen him, I seen him Saturday, this past Saturday and he had the gun then.

524 Q. On his person?

A. Yes, he showed it to me.

Q. You had breakfast at the restaurant, how long were you in the apartment with Mr. Claggett? How long were you up in Roger's apartment?

A. About an hour because Roger left. Roger left when he taken the brown bag outside. He taken it out and he stayed about twenty minutes, I would estimate outside and then he came and when he came back I started talking to him like I always do, you know, about different things and Martin Luther King and stuff and then it seemed like Jimmy just raised on the couch, put his arm up and I heard the gun click.

Q. Is that about 1:00 A.M. on May 6, that would be when Jimmy shot Roger?

A. Yes, I don't know the exact time. I don't know.

Q. Approximately about that time?

A. Yes.

Q. Then you went to the Hoover and you had breakfast, how long did you stay at the Hoover?

A. Around until after I finished breakfast, it was almost 5:00 o'clock.

Q. What happened then?

A. We left and went to one of Jimmy's friend's house down on Monroe, the building I showed you down there. That is where we went down there.

Mr. CRILLY. For the record, indicating Detective Nolan, that he indicated the building to Detective Nolan.

RICHARD BROWN. We stayed there.

Mr. CRILLY. Q. Do you remember that person's name?

525–526 A. No, I don't remember his name. I only know what apartment he is in, who he is, but his name I don't know.

Q. You and Jimmy went up there?

A. We went up there together. There is where I believe he had left the gun. I was in the front and he went in the back and when he came back out of the back, we left and went down on Jackson to St. Louis. He said, go cop a bag, man. I said, no, man, I am scared to, I am still thinking.

Q. What do you mean by cop a bag?

A. Marijuana.

Q. You meant, buy marijuana?

A. Yes.

Q. What is Jimmy's full name?

A. His full name is James Claggett, C-l-a-g-g-e-t-t.

Q. What is his address?

A. He told the officer his address.

Q. You don't know his address?

A. No, I know he stayed on Kedzie and he was staying on Madison. Where he stays, I could not say.

Q. Do you know if he works?

A. He does not work, he never worked a day in his life.

Q. Now the gun you sold Jimmy, how long had you had that gun?

A. I had the gun about three weeks.

Q. Had you done anything with that gun?

A. No, except for in the pool room.

Q. What happened there?

A. Well, we were shooting dice on the pool table and I had $40. They were shooting 2 and 2, 2 to fade and 2 to hit

527 and I was betting on everybody. The dice would come around my way and when it got to me I was broke, when they come to me. When I examined the dice, the dice were crooked. It was two fives on one. I knew my money was being taken. I pulled out the gun and shot one time in the ceiling, took my money back and left.

Q. When was that?

A. That was approximately, it was between Thursday and Friday.

Q. Prior to May 5?

A. Yes, that was before.

Q. About May 2 or 3?

A. This was—yes, I believe so, yes.

Q. What was the location of that pool hall?

A. 5th Avenue and Sacramento Boulevard.

Q. After you left, you went up to Jackson and St. Louis?

A. Yes, he said, why if you are scared, come hide with me. I said, no, the further I get away from you, the better off I will be because you got me in a whole lot of shit. He said, don't be worried. If they ain't got the gun, they can't prove anything. So I said, Okay. We walked down the street a little more and talking. We went to the park, sit in the park and talked and went over the lounge on Homan and Lake that morning, had two beers and I said I was getting ready to go because it was getting around nine o'clock. I got home almost ten.

Q. You left Mr. Claggett about 9 in the morning?

A. Monday morning.

Q. Did you have any further discussion about the shooting at a later date?

A. Yes, I did.

528–540 Q. When was that?

A. This was that following Wednesday.

Q. Where did you see him?

A. I seen him down on Madison and Albany that time. I came down there to—no, Madison and St. Louis. I came down. I wanted to talk to him. I was worried. I told him, and he said, man, you don't have anything to worry about. These police are stupid. Look at these people that they stick up. They ain't caught them. I said, okay, as long as you feel like that. I said, remember one thing, you shot the man. I did not shoot the man. He said, I am not worried about it. That was it.

Q. Was that the last time you talked to him?

A. No, I talked to him Saturday again.

Q. Where was this?

A. This was at My Sin Lounge. I came in and he was next to the Seeburg in a booth.

Q. Where is My Sin located?

A. I don't know the address, Madison and Albany.

Q. He was next to the Seeburg, the juke box?

A. Yes.

Q. What did you say to him?

A. I walked in the place. I said, Jimmy, I am getting nervous. The first thing he said, come on, get high, don't worry about it.

Q. What happened then?

A. Well, we went on and smoked marijuana. Then I stayed there about an hour and a half with him, maybe two hours. I left and told him I was going home. I didn't feel well. I listened to the radio.

Q. Did you see the gun at that time?

A. No—yes, I did see the gun. Yes, I did. I seen the gun on his side because when he stood up, I said,

* * * * *

541–565 Stipulation between State and Defense Counsel, that a pillow found in the deceased's apartment had three perforation bullet holes in it and these holes indicated the muzzle of the weapon was in contact with the pillow at the time the weapon was fired.

Stipulation between the State and Defense Counsel that certain fingerprints that were lifted from the apartment of Roger Corpus were compared with the prints taken from the body of the deceased and those prints were in fact the prints of Roger Corpus.

Stipulation between the State and Defense Counsel that a .38 caliber slug recovered from the ceiling of a pool hall located at 3011 West 5th Avenue was a wiped bullet, meaning that the sides are wiped clean therefore it was not ballistically comparable to any other bullets, specifically the bullets taken from the body of the deceased.

* * * * *

556–568

The State rested its case in chief.

The defendant entered the following evidence.

LOLA MAE BROWN, called as a witness on behalf of the Defense—

Direct Examination:

My name is Lola Mae Brown. I am the mother of the accused.

On May 13, 1968 I went to bed at 10:00. My son called me at 4:00 a.m. in the morning. He said he was in a police station.

569 Cross examination by the State:

ANNIE SCOTT, called as a witness on behalf of the Defense—

The Defense rests.

Closing Argument by the State.

Closing Argument by the Defense Counsel.

Closing Argument by the State.

The jury was instructed.
Guilty as Charged.
Judgment entered on the verdict.
Oral Motion in Arrest of Judgment made and denied.
Oral Motion for a New Trial denied.
Hearing in Aggravation and Mitigation held.
The Court sentences the defendant to a term in the State Penitentiary of not less than 15 nor more than 30 years.
Certificate of Official Shorthand Reporters.
Certificate of Clerk.

Docket No. 43349—Agenda 1—November, 1973

THE PEOPLE OF THE STATE OF ILLINOIS, APPELLEE,
v. RICHARD BROWN, APPELLANT.

OPINION

Mr. JUSTICE GOLDENHERSH delivered the opinion of the court:

Defendant, Richard Brown, was found guilty of murder by a jury in the circuit court of Cook County and sentenced to not less than 15 nor more than 30 years in the Illinois State Penitentiary.

Defendant and Jimmie Claggett were charged in a four-count indictment with the murder of Roger O. Corpus. At approximately 5:00 P.M. on May 6, 1968, Corpus's body, his ankles bound with white electric cords, was discovered lying on the floor of the living room in his apartment. The door to the apartment was open, lights were on, and music was playing, presumably on a radio. The deceased's wallet, credit cards and much of his clothing were missing.

As grounds for reversal defendant contends first that the trial court erred in denying his motion to suppress two statements, one made to the arresting police officers, and the other to an assistant State's Attorney. He argues that his arrest was unlawful in that it was made in his home, at night, without a warrant, after forcible entry by the police and that there were no exigent circumstances shown which justified the failure to seek a warrant for his arrest. He contends further that the statements taken from him following his arrest were obtained prior to his being taken before a magistrate, that they are "the products of the unlawful custody" and should have been suppressed and excluded from introduction into evidence.

The People contend that at the time of defendant's apprehension the arresting officers had reasonable grounds to believe that he was implicated in the murder and that the arrest without a warrant was, therefore, lawful.

The testimony adduced at the hearing on the motion to suppress shows that on May 13, a week after the murder, two detectives went to defendant's apartment, that one of them concealed himself within the apartment and the other concealed himself outside the apartment. The entry into the apartment was accomplished in defendant's absence and without a warrant. After they had waited for approximately three hours defendant appeared, and Detective Lenz greeted him with drawn revolver and placed him under arrest.

In support of their contention that the police officers had probable cause for defendant's arrest, the People rely principally on the testimony of the deceased's sister, Constance DeLoach. The record, however, shows that Mrs. DeLoach testified, not at the hearing on the motion to suppress, but at the trial, and there is no evidence that the police, at the time of the arrest, were possessed of knowledge of the matters to which she testified. The deceased's brother testified that he had given
defendant's name to the police on May 7, but made
571 no suggestion that defendant was responsible for the death because "nobody asked." Later, apparently on May 9, the police were told that on the day of the murder defendant had been seen in the building where the deceased lived.

Upon review of the record, we conclude that the testimony fails to show that at the time of his apprehension there was probable cause for defendant's arrest, that his arrest was, therefore, unlawful, and we consider next the question whether the statements were the product of the illegal arrest and, therefore, improperly admitted into evidence.

The People contend that even assuming that defendant's arrest was illegal, his statements were voluntarily made after he was fully and properly advised of his right to remain silent and of his right to have an attorney appointed to represent him and to have him present during questioning, and that the giving of the *Miranda* warnings (*Miranda* v. *Arizona*, 384 U.S. 436) served to break the causal chain so as to sufficiently attenuate and dissipate the taint of the unlawful arrest. (*Wong Sun* v. *United States*, 371 U.S. 471.) They argue that his statements did not result from his arrest but rather from the defendant's realization that, even from the facts already known to police, he was implicated in the killing and that he wanted it known that he was merely a bystander and that Claggett was the actual killer.

The testimony adduced at the hearing on the motion to suppress shows that following his arrest defendant was taken to an interrogation room at the Maxwell Street station. Officer William Lenz testified that defendant was advised of his constitutional rights and stated that he understood them. Officers Lenz and William Nolan "had a conversation with" defendant relative to the slaying of Corpus after which defendant agreed to give them a statement. A two-page statement was taken and Officer Lenz testified that the statement "bears the signature of Richard Brown." This statement, however, is not included in the record and no issue is raised concerning it in this appeal. After this statement was taken the officers took the defendant to the Madison and Homan area in an effort to find Claggett. They did not find Claggett and went to the identification section of the central police station to obtain a photograph of him. They returned to the area where they had sought Claggett and found and arrested him. Following a brief conversation with Claggett the police officers talked briefly with defendant and then called an assistant State's Attorney. The assistant State's Attorney arrived at 2:00 A.M. and talked with defendant for approximately 25 minutes. During this period a court reporter arrived and the assistant State's Attorney took
a question-and-answer statement which was transcribed,
572 but when it was presented to defendant at approximately 4:00 A.M. he refused to sign it. Over objection the circuit court permitted the statement to be read to the jury and it was then, again over objection, offered and admitted into evidence. Contained in this statement are explicit *Miranda* warnings given the defendant by the assistant State's Attorney and defendant's responses indicating that he understood them. The second statement which defendant contends was erroneously admitted was introduced into evidence in the testimony of police officer Nolan who related to the jury what was told him by defendant during interrogation which preceded the taking of the question-and-answer statement. Both Officers Lenz and Nolan testified that defendant had been advised of his constitutional rights.

From our examination of the record, in the light of the circumstances shown by the testimony, we conclude that the giving of the *Miranda* warnings, in the first instance by the police officer and in the second by the assistant State's Attorney, served to break the causal connection between the illegal arrest and

the giving of the statements, and that defendant's act in making the statements was "sufficiently an act of free will to purge the primary taint of the unlawful invasion." (*Wong Sun* v. *United States*, 371 U.S. 471, at 486.) We hold, therefore, that the circuit court did not err in admitting the statements into evidence.

Defendant contends next that even if the statements were properly admitted into evidence, they were exculpatory and he was not proved guilty of murder beyond a reasonable doubt. In the statements defendant admitted that he was present in the deceased's apartment, that at Claggett's direction he tied the deceased's hands and feet and although he stated Claggett fired the fatal shots, he had sold him the pistol earlier that evening. The evidence is clearly sufficient to sustain the conviction. *People* v. *Nowak*, 45 Ill.2d 158.

Defendant contends next that the trial court improperly admitted evidence of an unrelated criminal offense. The evidence of which he complains was contained in his statement and was in explanation of why he had sold the gun to Claggett. This was admitted in the course of proving what defendant had said to the police and what he had told the assistant State's Attorney, and under the circumstances shown its admission into evidence was not error.

Finally defendant complains of the court's refusal to give a tendered instruction on circumstantial evidence (IPI Criminal No. 3.02). The People tendered, and the court gave, an instruction in the form of IPI Criminal No. 3.02 but without the second paragraph. Obviously the proof of guilt was, in part, defendant's own statements, and with direct evidence of his participation in the crime, the trial court correctly refused the tendered instruction.

In the absence of prejudicial error, the judgment of the circuit court of Cook County is affirmed.

Judgment affirmed.

573 In the Supreme Court of the United States

No. 73-6650, October Term, 1974

RICHARD BROWN, PETITIONER

v.

ILLINOIS

On petition for writ of Certiorari to the Supreme Court of the State of Illinois.

On consideration of the motion for leave to proceed herein in *forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed in *forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted.

OCTOBER 21, 1974.